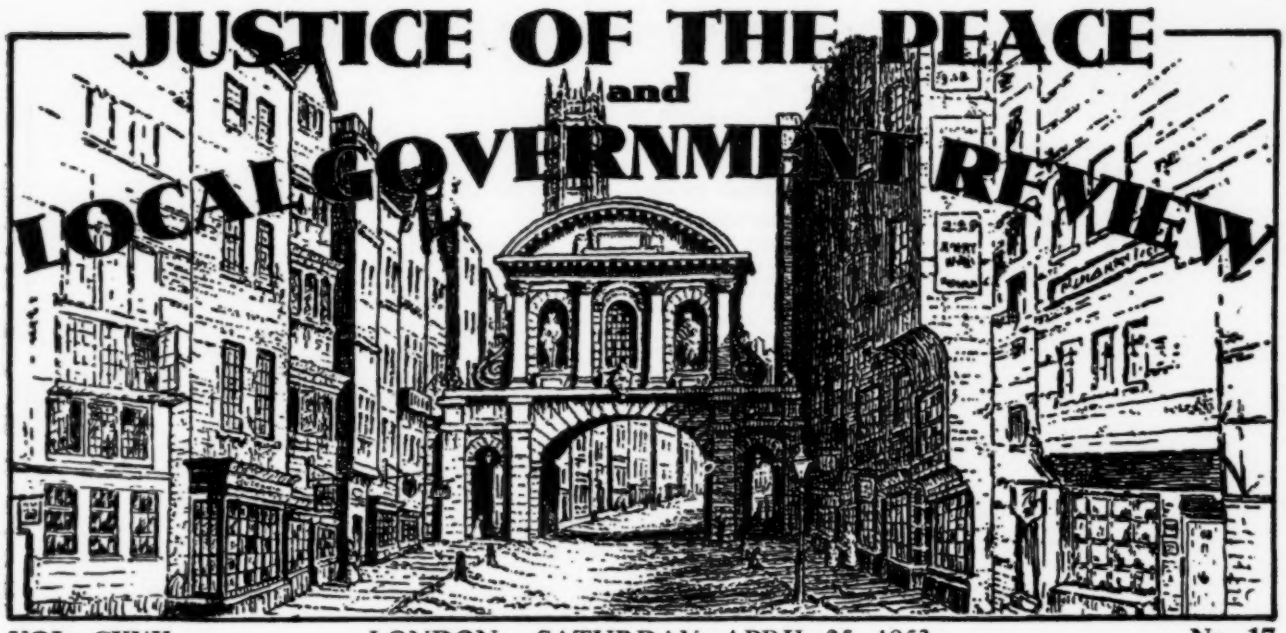

VOL. CXVII LONDON: SATURDAY, APRIL 25, 1953 No. 17

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note:* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

SITUATIONS VACANT

FEMALE CLERK to take charge of Collecting Officer's Accounts and assist with issue of process, under supervision. Salary in General Divisions of National Joint Council Scale, according to age. Superannuable. Applications stating age, experience, and education, with names of two referees, to The Justices' Clerk, 138, High Street, Guildford.

SITUATIONS WANTED

UNDERGRADUATE taking Bristol LL.B., May, 1953, desires three years' articles in practice offering local government experience; no premium possible; keen diligent worker; service exemption. Jenkins, c/o Town Clerk, Gloucester.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU T. E. Hoyland. **Ex-Detective Sergeant.** Member of the B.D.A., F.B.D., Associated American Detective Agencies, and the World Secret Service Association. Confidential enquiries; Divorce, etc.; Over 600 agents in all parts of the World. Over twenty-five years C.I.D. and Private Detective Experience at your service. 1, Mayo Road, Bradford. Tel.: 26823 day or night. Established 1945.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel.: Boldon 7301. Available day and night.

NOTICE

NATIONAL Association of Justices' Clerks' Assistants. The Fifteenth Annual General Meeting of the Association will be held at the Royal Station Hotel, York, on Saturday, May 9, 1953, at 2 o'clock in the afternoon. ALEXANDER BRIMELOW, Honorary Secretary, The Guildhall, Doncaster.

COUNTY BOROUGH OF GLOUCESTER

APPLICATIONS, within fourteen days, invited for appointment of Assistant Solicitor within Grades A.P.T. VII—VIII according to experience. Aptitude for experience in conveyancing and advocacy essential. Names of two referees required and state earliest available date to take up appointment.

L. O. NEED,
Town Clerk.

Guildhall,
Gloucester.

COUNTY BOROUGH OF IPSWICH

Appointment of Senior Solicitor

APPLICATIONS are invited for the above appointment in the Town Clerk's Office at a salary in accordance with Grade X of the A.P.T. Division of the National Salary Scales (£895—£1,025); the commencing salary to be fixed according to the qualifications and experience of the successful candidate.

The appointment is subject to (i) the provision of the Local Government Superannuation Act, 1937; (ii) the successful candidate passing a medical examination and (iii) the Scheme of Conditions of Service of the National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Services.

There is no form of application but candidates must state age, experience, qualifications and other relevant details, and the names of three persons to whom reference can be made.

Applications, in envelopes endorsed "Senior Solicitor," must be received by me not later than May 2, 1953.

Canvassing will disqualify. If any applicant is to his knowledge related to any member or senior officer of the Council that fact must be disclosed in writing to me when an application is submitted.

J. C. NELSON,
Town Clerk.

Town Hall,
Ipswich.
April 17, 1953.

MIDDLESEX COMBINED PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICANTS must be not less than twenty-three nor more than forty years of age, except in the case of a serving Probation Officer, and have recognized social science training. Appointment and salary according to Probation Rules, 1949/1952, plus £30 per annum Metropolitan Addition; subject to superannuation deductions and medical assessment. Application forms from undersigned to be returned by May 2, (quoting L.903 J.P.)

CLIFFORD RADCLIFFE,
Clerk to the County
Probation Committee.

Guildhall,
Westminster, S.W.1.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

VOL. CXVII. No. 17 LONDON: SATURDAY, APRIL 25, 1953 Price 2s. 3d. (including Reports) Price 1s. 3d. (without Reports)

Pages 257-272 Offices: LITTLE LONDON, CHICHESTER, SUSSEX. [Registered at the General Post Office as a Newspaper]

NOTES of the WEEK

Stealing and Intention

Men who are charged with embezzlement or similar offences often say they borrowed money with the firm intention of repaying it and with no intention of committing any criminal offence. The money was intended to be used as a means of tiding over some domestic difficulty and was to be repaid quite soon. When it is not repaid and the facts come to light a prosecution follows, and only too often it transpires, that the defendant has made matters worse by attempting to make good the shortage by betting. An unlucky bet is followed by the taking of more money to make another bet, and so it goes on, with the result that the defendant has to answer a number of charges. His defence is that he never had any dishonest intention, that he never gave up hope of repaying all he had borrowed and that he certainly did not intend his employer to lose his money.

If a man takes money which does not belong to him and to which he has no claim, but intending to repay it and believing that he will be able to do so, is he acting fraudulently and does he intend permanently to deprive his employer of his property? These questions were answered by the Court of Criminal Appeal in *R.* v. *Williams* (*The Times*, April 1). The Court held that a husband and wife were rightly convicted of stealing money from the till of a post office managed by the wife, although they intended to repay it had they been able to do so. In the course of delivering judgment the Lord Chief Justice drew attention to the need for proving an intention permanently to deprive the owner of the property, and said that in this case they were dealing with notes and coins, there being no question that the appellants did so intend, adding "Did it make any difference that they intended to repay, which only meant that they hoped to do so? It was one thing if a person who was in good credit used the money of another merely intending to use it instead of some money of his own, but it was quite another matter if the person who took the money was not in a position to replace it, but only hoped that he might be able to do so." The hope of being able to repay might go to mitigation, but to nothing else.

As to the word "fraudulently," the Lord Chief Justice said that in such a case as the present, the word was intended to add something to the words "without a claim of right," and he went on to explain what intentions it involved. The convictions were upheld.

It is quite clear, then, that a mere hope of repayment is no defence where the taking is fraudulent, but that there may be cases in which it can be pleaded in mitigation. It seems also clear that if a person who is in credit takes money which he can certainly repay and intends to repay without delay, as for instance when he wishes to pay an account and the bank is closed, then although the taking is unauthorized it could properly be held to be not fraudulent.

Adoption of Child who is subject to High Court Order of Custody

Clerks to justices who have been in some doubt as to the advice they should give the justices when application is made to them for an adoption order in respect of an infant who is the subject of an order made by the High Court as to custody, will note the observations of Davies, J., in *Crossley* v. *Crossley* [1953] 1 All E.R. 891.

The learned judge was dealing with an application for leave to take a child out of the jurisdiction, the child having been already adopted by his mother and her second husband, whom she had married after obtaining a divorce. He decided that he had no power to make the order, as the child had ceased to be a child of the first marriage. The observations to which we invite attention are as follows: "The view is, apparently, taken by some courts of summary jurisdiction and by some county courts which have jurisdiction in this matter that out of deference to this court the inferior court ought not to proceed to make such an order unless the order of the High Court is first cleared out of the way. That matter has been dealt with by a direction of Lord Merriman, P." *See Raydon on Divorce* 2nd Supplement p.B63. Having read the direction of the learned President, Davies, J., added, that he hoped that in future persons who were seeking to obtain adoption orders in such circumstances as these would be spared the expense and the trouble of having to apply to the High Court to discharge the custody order, since it was plain that it was unnecessary.

Scientific Evidence

By way of introduction to an article in *The Texas Law Review* entitled: "Breath-Tests for Alcohol: A Sampling Study of Mechanical Evidence," Mr. Dillard S. Gardner discusses the increasing use of scientific evidence in courts of law. As he states, the progress of the law of proof has been from the subjective to the mechanical. "The age-old dream of man has been the achievement of a sort of 'slot-machine proof' where a situation is fed into a device and out rolls the correct adjudication." That is an observation, which is probably truer as applied to America, than to this country. In America compulsory blood tests, lie detectors and other scientific forms of evidence have found readier acceptance. Nevertheless, Mr Gardner recognizes that even in America caution is still observed, and, he says, courts are usually commendably conservative in rejecting scientific mechanisms of doubtful aid to the jury. The danger of what he calls "gadget evidence" is, he says, that it has the appearance, often illusory, of being accurate, objective, and "foolproof," an easy and happy substitute for the more

onerous task of analytical thinking traditionally imposed on juries.

An interesting example of a new form of scientific apparatus affording proof in legal proceedings is the use of radar in relation to the speed of a motor-car. The device is apparently called a "whammy," and a footnote to the article states: "The first impact of police use of the 'whammy,' or radar speedmeter, upon motorists results in one hundred *per cent.* convictions, but a closer study of the device reveals that it is by no means infallible."

On the other hand, photography as an aid to proof has become more and more valuable, beginning with simple photographs and proceeding to X-ray and motion pictures. We are all familiar also with the use of enlarged photographs in connexion with the evidence of handwriting experts and of finger-print experts.

As Mr. Gardner says, courts must be on guard against this subjective positiveness without objective justification. Scientific evidence can be conclusive, but only when it is shown that it is based on unquestionable principles and that any experiments have been conducted in such a way as to leave no doubt as to their accuracy.

Breath Tests for Alcohol

Proceeding to his main theme of the use of breath-tests in cases where the effect of alcohol upon a person is in question, Mr. Gardner examines practice and theory critically. There are several devices in use for preserving samples of the lung-air for later testing either by a police technician or by a chemist. The testing procedure is based upon a number of scientific assumptions, but scientists vary in their acceptance of one or more of these necessary assumptions. There is an obvious reason for caution in accepting such tests as valid, and one Canadian authority has gone so far as to say: ". . . in my opinion, the sooner this test is discarded for medico-legal purposes, or at least withheld until it is improved, the better . . . there is little to say in its favor." Indeed, there are doubtless many people who would subscribe to an opinion attributed to the late Sir Bernard Spilsbury that drunkenness cannot be boiled down to a test. There is admittedly a wide divergence between individuals in relation to their sensitivity to alcohol, and the amount of alcohol in the blood is not a sure index to the degree of its effect on sobriety. Moreover, Mr. Gardner points out that advocates of the breath test assume that the alcohol content of the blood is the same as that of the brain; actually they are not always the same. The article goes on to state that by analogy to the "best evidence rule," the breath-tests may be characterized as "secondary," and inferior to direct blood analyses. "The case for the breath-tests leans heavily upon expediency and convenience rather than upon accuracy and justice."

To sum up the question in Mr. Gardner's own words: "These breath-testers are useful; they detect the presence of alcohol; they assist the officer in verifying his "snap judgment" of a suspect; and, when a very high reading is shown for the defendant who claims to have had "just a beer," they suggest further investigation and questioning in the interest of truth . . . The dignity and weight of truly scientific aids can be maintained only by the exclusion of theories not yet accepted and devices of doubtful accuracy."

The Prisoner's Antecedents

At p. 739 of last year's volume we referred to observations made by the Lord Chief Justice in *R.* v. *Crabtree* [1952] 2 All E.R. 974 in the course of which he criticized one passage in a Home Office Circular which read as follows: "As regards details of antecedent history other than convictions the Secretary of State suggests that there is no reason why this should be given." Lord Goddard gave reasons for his view that the Home Office might well reconsider the matter, and this has resulted in the issue of Circular 52/53, dated March 17.

As to the proof of an officer giving evidence as to character and antecedents, the circular states:

"The Secretary of State has now suggested to Chief Officers of Police that the proof should be prepared in two parts, one containing the information suggested in Home Office Circular No. 187/1950 and the other containing such information as the officer is prepared to give about the prisoner's general reputation and associates; and that, where counsel for the Crown proposes to ask that the latter information should be given to the court, copies of both parts of the proof should be given after conviction to the court and to the defence."

Professional Modesty at the Bar

The Bar is by its professional rules a "Silent Service", which when one considers the histrionic characteristics of great advocates, is a somewhat remarkable situation. A considerable number of rules have been framed to prevent advertisement by members of the Bar. It is, for example, contrary to etiquette for a barrister to have his name inserted in the *classified telephone directory* or to allow his name or photograph to be published if he broadcasts a lecture on a legal subject on the wireless. In addition he is not allowed by the etiquette of his profession to write in the press or any periodical, other than a *legal* periodical, articles over his name coupled with his style as "barrister-at-law." Many other rules hedge him about in this connexion.

The object of those rules is to prevent a barrister obtaining an unfair advantage over his colleagues by means of such advertisements. It is also considered to be derogatory to the high standing of the Bar for a member to do anything which savours of personal advertisement. Various legitimate means, however, remain to him of making himself known within the legal profession and in the outside world.

No doubt the best possible and most legitimate advertisement is a report in the press of a case in which the barrister has appeared as counsel together with his name. He may also write articles in legal periodicals with his name and designation and, of course, become the author of a legal text-book. It is inevitable, however, that the spectacular careers of some eminent counsel become of interest to the press at large and to gossip-writers. Their fabulous incomes and their forensic feats make good copy in a humdrum world.

In seeking to avoid the limelight which would otherwise have been shed about him by the *Sunday Express* Sir Hartley Shawcross (who is the Chairman of the Bar Council) has if anything attracted the glare of even greater publicity from other journals including ones as diverse as *Punch* and the *Sunday Pictorial*.

Although, as Sir Hartley pointed out at the Annual General Meeting of the Bar, most cases are won (or lost) on their facts, there can be no doubt that in some skilful advocacy plays its full part in the result. It is, however, undoubted that in the best interests of the administration of justice the public should not be encouraged to regard the course of litigation as a species of battle with counsel as rival gladiators. It is the duty of counsel to promote his client's interests to the utmost of his ability but he also has a duty to the court to assist them by his presentation of the facts and law so as to do justice between the parties.

Housing in Canada

As elsewhere in the world one of the urgent problems of Canadian welfare authorities is the shortage of adequate housing for families who require accommodation large enough to meet their needs and inexpensive enough to suit their means. There is no widespread provision of housing by municipal authorities but this is being done in some places, and there the rents are sometimes being based on the incomes of the tenants. For instance, in St. Johns, the capital city of Newfoundland, thirty-five buildings are housing 140 families who moved from a condemned housing section of the city. The houses are restricted to persons with an annual income of £350 to £1,000 a year. The rents are based on income and the average rent is about fifty shillings a week which means that the average family has an income of about £600 a year. The social value of the change from inadequate housing is shown by the fact that the tenants have organized a community centre and plans are being made for vocational training and adult education. There are sports facilities for young people of both sexes. Another scheme is being undertaken for the erection of accommodation to be rented to families of higher income who can afford to pay economic rents.

Throughout Canada seventy-five *per cent.* of the cost of publicly sponsored housing is borne by the federal government and the balance by the provincial government concerned, or its agent, which may be a local authority. The provincial government has various powers in this connexion, including the purchase of unused land and its developments with roads and necessary services and the sale of plots upon which houses may be erected by private enterprise. The legislation also enables the two governments to erect houses for sale, as is possible in Australia and New Zealand. In various parts of Canada low-rental housing has been developed by the public-spirited initiative of private citizens under a scheme whereby loans can be made from federal funds to a "limited-dividend" housing company to assist in the construction of low-rental housing or to convert existing buildings into a low-rental housing scheme, the dividends being limited to five *per cent.* of the cost at an interest of 3¾ *per cent.* and an amortization period of up to fifty years.

Security Furnished

In advising readers upon the relation between the Furnished Houses (Rent Control) Act, 1946, and the Landlord and Tenant (Rent Control) Act, 1949, we took the view that s. 11 of the latter had given tribunals a power of conferring security of tenure which it was quite likely Parliament had not intended. There was some support, in language used during the debate upon the Bill for the Act of 1949, for supposing that Parliament had not intended to go so far as we thought it had gone. Our view, that the Act had given security of tenure in certain cases which we were discussing, was contested by our contributor, the late Mr. Horton Smith: *see* 113 J.P.N. 531, 563; 115 J.P.N. 789. The Divisional Court in the case of *R.* v. *St. Helens and Area Rent Tribunal, Ex parte Pickavance* [1952] 1 All E.R. 455; 116 J.P. 147 preferred his view to ours, with a dissentient judgment. The Court of Appeal at [1952] 2 All E.R. 9 upheld the decision of the Divisional Court, again with one dissentient, and here it must be taken that the law rests, unless the unlikely event occurs of the taking of a similar case to the House of Lords. It is reasonably certain that Parliament will not intervene if only because, at any rate on our view of the matter, the majority decision of the Court of Appeal more probably expressed what Parliament intended than the interpretation of the Acts which we thought necessary upon their language. In the January issue of the *Modern Law Review*, Mr. J. A. G. Griffith analysed the decisions and came to yet a third conclusion on the Act of 1949. This was that Parliament had intended to do that which we thought was not intended, and that its benevolence towards tenants in this particular had been defeated by the Courts. Mr. Griffith pleads for amending legislation as a matter of urgency, but we do not imagine there is any chance of such amendment in the present Parliament. Incidentally he points out that the distrust and even dislike of the tribunals, which has appeared to exist upon the judicial bench, is hardly reflected among the public, since references to the tribunals are still at the rate of 10,000 a year. In order to reduce general ignorance about their work, and the fear said to trouble some of those concerned about making a reference to them, Mr. Griffith suggests that the Minister of Housing and Local Government should be empowered to issue directions (which should be made public) to the tribunals, indicating in general terms the ways in which and the purposes for which their discretion should be exercised. We cannot say that we like this suggestion. Its author claims that the independence of tribunals, and their reliance on their own assessment of the facts before them, would not be affected, and this may be true. The independence of boards of guardians, for instance, and their reliance on their own assessment of the facts upon which poor relief had to be granted or refused (when the boards were entrusted with that task) were not destroyed by the power of the Local Government Board to issue general orders; "by this method (says Mr. Griffith) any persistent tendency of the tribunals, for example, to grant continued security of tenure as a matter of course could be checked." We think, however, that if directions in this sense were given there would inevitably be great political pressure on the Minister, who would be charged with having sought to defeat the intention of Parliament—as Mr. Griffith charges the Divisional Court and the Court of Appeal. A direction in that sense might easily become an election issue; meantime, neither the Minister in the House of Commons nor the tribunals in their local jurisdiction would know where they stood from day to day. The tribunals, like all human institutions, have their weaknesses, but we have never subscribed to the criticism levied at them on the strength of the relatively few cases which have come before the Courts, nor have we endorsed editorially the suggestion frequently made by the late Mr. Horton Smith and others, that there should be an appeal from the tribunals to the courts, over and above the present possibility of going to the Divisional Court for *certiorari* or *mandamus*. We are not discussing that suggestion here, but we do not think a ministerial power of issuing general directions would be any more desirable, as a means of curing whatever defects exist. Rather than that, we would leave the tribunals to operate, each in its own sphere, according to its own conscience and its assessment of the facts before it, and take the risk that human fallibility, or human differences of outlook, will produce inequality of result.

High Tide of Local Rates

Apart from unreasoning hope akin to that of an optimistic ostrich with its head in the sand, little surprise ought to have been caused by announcements of substantial increases in local rates in England and Wales in the coming financial year. Many chairmen of finance committees were insistent that this would be so when introducing their budgets, all finely trimmed to utilize every snippet of financial cloth, a year ago. Since then, earlier events, largely emanating from wars hot, warm and cold, and pay increases originating as much in the political as economic field, have had time to produce the cumulative and ultimate effect on costs and prices which is concealed by relative insignificance of separate occurrences over a period, and gradual exhaustion of stocks acquired at lower prices.

Effects of the increases can be viewed in national totals and averages, by areas and as regards individuals. In total, the increase in the amount of rates to be collected in 1953-54 in England and Wales may be £30 million, carrying the total collection up to about £100 million above the £269 million collected in 1948-49 when the Local Government Act, 1948, and other legislation made important changes in the functions and finances of local authorities; expressed as an average rate, the total collection in 1953-54 will be about 21*s.* 0*d.* in the £, compared with 16*s.* 11*d.* in 1948-49. Total expenditure in 1953-54 other than out of loans for capital works, will be nearly double the £533 million in 1938-39, assisted in 1953-54 by the national Exchequer in respect of grant-aided services and equalization grants under the Act of 1948 to the extent of rather more than £350 million. None of the movements thus indicated are markedly out of consonance with those of other elements in the wider economic field of which all are part and parcel.

By areas, effects in 1953-54 and after will be various. Those authorities which scraped the bottom of the barrel last year, as many did, and contrived to reduce their calls by recourse to balances will seem harder hit this year through having to catch up with higher requirements from a mark set further back by previous mitigation. But it is remarkable how closely local trends over a period of years conform with the national trend, despite an apparent lack of proportional similarity between the movement of poundages, and other comparative criteria, for particular areas in certain years. Envious eyes will doubtless rest upon those counties and county boroughs which will derive considerably larger assistance from the national Exchequer in 1953-54 by way of Equalization Grants under the Act of 1948. Not all the envy will be justified, because it may rest too heavily on amounts and equivalent poundages credited and fail to appreciate that the assistance is mainly governed by the extent to which local rateable value is deficient in comparison with the general average. The question which will properly be more insistent is whether some areas are deriving undue benefit from levels of valuation which were or have become sub-normal while others in which valuation functions were discharged more efficiently and conscientiously have only an ephemeral mantle of virtue for negligible comfort in the frosty wind of financial inflation.

Many individuals will notice the increase of rates as a considerable additional burden on already attenuated domestic resources whose diminution by the general rise of prices has not been replenished by higher rates of pay subject to income tax. Perhaps a little more interest will be taken in local elections but, more likely, shoulders will be shrugged and questions relegated to the limbo of other economic conundrums. A few of the million or so workpeople whose rates of pay are regulated under sliding scales based on the index of retail prices may view the increases with equanimity; the weight given to rent and rates in the index of retail prices is comparatively small (72 : 1000) but the new increases will probably add at least one point to the official index. Perhaps, too, when the full story is available, it will be found that the heaviest rate burdens are, in fact, located where recent statistics of the Commissioners of Inland Revenue indicate that Schedule E incomes approach an average of £400 *per annum* compared with some provinical areas where the average is below £300. The day may be drawing nearer when closer consideration will have to be given to a more intimate relationship between personal incomes, domestic responsibilities and services received than is derivable from apportionments according to the rateable values of hereditaments whose density of occupation and personal circumstances of the occupants are often out of perspective with the amount of contributions made to local revenues.

CANIS CANINUM NON EST

By J. DUNKERLEY, D.P.A.

Whilst the proverb " Dog does not eat dog " is (to select the appropriate adjective) dogmatic, another proverb—" It's a hard winter when dogs eat dogs "—appears to allow canine cannibalism in certain circumstances. At all events it appears reasonable to assume that normally dog does not consider dog to be the ideal dog's dinner.

However, we have heard of dog fights in which one or more of the combatants has suffered injury, which leads the magisterial mind to cogitate upon the repercussions this might have in a court of summary jurisdiction should an irate owner complain that his pet has been injured by another dog.

At common law dogs were assumed to be unlikely to attack humans or other animals, and knowledge of the dog's vicious propensities was essential to render the owner liable in damages. But this has been altered by the Dogs Act, 1906, s. 1 of which makes it possible to recover damages in respect of injuries to cattle (and poultry—Dogs (Amendment) Act, 1928) caused by dogs, without proof of *scienter*. " Cattle " includes horses, mules, asses, sheep, goats, and swine, but not rabbits: (*Tallents* v. *Bell and Goddard* [1944] 2 All E.R. 474), nor presumably, does it include other dogs.

On the other hand, benches are confronted occasionally with a complaint under s. 2 of the Dogs Act, 1871, that a dog is dangerous and not kept under control, the grounds for complaint being that dog has attacked dog. " Dangerous " in s. 2 is not confined to meaning danger to mankind: *see Williams* v. *Richards* (1907) 71 J.P. 222, but even so it seems doubtful whether there would be sufficient evidence for an order unless there were more ingredients than the ordinary antagonism which appears to exist between some members of the species (though, we are informed, generally between dog and dog as distinct from dog and bitch). An order might properly be founded upon evidence of a dog's having attacked or attempted to bite a human being who was protecting the victim and, again, there may be grounds in a complaint of attacks of a malicious and unprovoked nature by a dog known to be prone to such mischief and not kept under control.

Perhaps, if the offending dog can be said to be " ferocious ", s. 28 of the Town Police Clauses Act, 1847, may be invoked, where that section is in force. The section, which deals with offences in any " street " to the obstruction, annoyance or danger of the residents or passengers, makes liable to punishment " every person who suffers to be at large any unmuzzled ferocious dog, or sets on or urges any dog or other animal to attack, worry or put in fear any person or animal ". It will be noted that, in the case of deliberate incitement, the element of ferocity is not necessary. *Lumley* gives several case references in his note upon this section.

It is hardly necessary to point out that a further alternative remedy would be a hair of the defendant's dog, though this might sometimes involve complications: *Jones* v. *Perry* (1796) 2 Esp. 482.

CHILDREN IN CARE

[CONTRIBUTED]

Few things part of a whole could be more diverse than the multiplicity of services which local authorities seek to provide through a common administration. And even within the sphere of a particular service there is often much that is heterogeneous.

This reflection upon the irreconciliability of many aspects of local administration is provoked by the disclosure in their report to the March meeting of the council by the Children's Committee of the Surrey County Council that local authorities under the Children Act, 1948, are apt to find themselves in an almost impossible position when children in their care are injured in circumstances which may give rise to a claim against the council. What, for example, is a local authority to do if a child in their care is injured possibly through the negligence of their officers or by reason of a defect in their property? They dare not, of course, admit liability—for this would incur the displeasure, to say the least, of their insurance company, let alone be a breach of the authority's duty as trustees of public funds. Yet surely the right and proper interests of the child ought not to be subordinated to that duty—or should it? In other words, how can the local authority act fairly in such circumstances?

It seems strange, perhaps, that this unhappy conflict of responsibility has not previously been appreciated: or if it has the difficulty has never, so far as the writer is aware, been resolved. Surrey County Council, in a commendable determination to do the right thing both by their ratepayers and by the children in their care—particularly those over whom they have full parental rights—have reached this conclusion.

Where a child has been received into care without the assumption by the council of parental rights, the parents of the child are to be informed of the accident by the clerk of the council and it will be left to the parents to decide whether or not there is a claim against the council and whether or not to take action. Where a child is under the sole guardianship of the council or where the whereabouts of a child's parents are not known, the President of the Law Society will be requested by the council to nominate a solicitor to consider the case on the child's behalf and to act for the child if it is considered that the child has a claim. In other words, the council are seeking to fulfil their dual responsibility without prejudice either to the child or to public funds by placing the child as far as practicable *vis-a-vis* themselves as if the child were an outside party with a possible claim against the local authority.

Whether or not this is a right decision and one which will satisfy completely every case that arises remains to be seen, but at least it seems a practical and intelligent attempt to overcome a rather extraordinary predicament.

The public care of deprived children is a service not only brimful of unusual legal and administrative perplexities, but one which appears to encourage the utterance of endless platitudes and abundant nonsense, trite in the extreme after the sound common sense of the Curtis Report of 1946.

It is not uncommon, for example, for there to be recurrent condemnation of the seemingly high cost of maintaining a child in a children's home or residential nursery, but rarely is any serious attempt made to reconcile this cost with that of the more fortunate child living with his parents in an ordinary home. If that were done it would become apparent that children in a home or nursery invariably cost less in food and clothing than ordinary parents expect to spend on their offspring. Local authorities, for a number of good reasons, are bound to include in the cost of maintaining a child in a residential establishment all overheads properly attributable to the service: rent, fuel, domestic renewals, upkeep of buildings, salaries of staff, etc. If parents "costed" the maintenance of their own children in the same way by alloting a proportion of their outgoings and by charging a notional sum for the mother's services, there might be less unjustified indignation at the figures produced by local authorities.

There is, indeed, practically no evidence to suggest that local authorities are less efficient in the administration of the children's service than in the management of others. But the care of children presents special difficulties. There is a point, of course, below which a local authority's duty to the deprived child cannot be discharged solely in terms of cold efficiency, where administrative niceties of classification and uniformity—inescapable if efficiency and economy are to be achieved—are no longer to be valid. "Administrative efficiency, essential as it is," says Miss E. Penelope Hall in *The Social Services of Modern England*, "does not in itself ensure the well-being of the child."

Probably one of the major difficulties facing local authorities is that of resolving the conflicting claims of economy and the interests of the child. In so far as parents can provide for their children only within the limits of their purses, so local authorities need only provide for "their" children to the standard which might reasonably be expected of ordinary, good parents. But local authorities, unhappily, cannot limit the growth of their family: they have a clear duty which they cannot, or ought not, to evade . . . and money must be found for the purpose. Authorities recognize this, and achieve such economies as they can by the efficient organization of their administrative machinery in central offices and in good housekeeping at homes and nurseries.

Fortunately both the interests of the child and that of economy point to an expansion of boarding-out, but foster-homes, at least of the right type, are not easily found and are almost never available for the "difficult" child. And as the Home Office recently observed in their comments upon the recommendations of the House of Commons Select Committee on Estimates, there is a point beyond which boarding-out cannot be expanded without risk of unsuitable placings and consequent damage to the children.

Substantial savings in the expenditure of public funds could be achieved by additional boarding-out even if boarding-out allowances were increased to persuade more foster-parents to come forward, but it is in doing just this that the possibility of unsuitable placings arises: the determination of the level of allowances is a matter of some finesse, for it must be delicately balanced to provide a proper reimbursement of a foster-parent's outgoings without encouraging fostering for profit.

It is possible to trace out *ad nauseum* the difficulties and perplexities that confront those concerned in the administration of the Children Act and associated statutes, but one final point might be made.

The peculiar requirements of the children's service also militate against adoption of the now generally accepted principle of distinguishing between policy and its execution, of separating as far as practicable the distinct spheres of activity of member and officer. Both the law and the spirit of present legislation in the matter of child care require that the member shall concern himself or herself with individual children as much as, or even conceivably more, than with principles and policies. The

Children and Young Persons (Boarding Out) Rules, 1946, require the progress of every child to be reviewed " by an appropriate committee " and the Administration of Children's Homes Regulations, 1951, specifically empower the administering authority to allow if they so wish " a member of the children's committee of the local authority " to visit and satisfy himself or herself that the home is conducted in the interests of the well-being of the children . . . Indeed, one might go so far, without misrepresenting the true position, as to say that if a children's committee were to content themselves merely with the deliberation and decision of policy they would be guilty of grave default in their responsibilities.

PRELUDE OR MISFIRE

On the eve of the Easter recess, a " Report and Recommendations of Representatives " of all the local government associations, except the Association of Municipal Corporations, upon the subject of reorganization of local government, were issued to the press. Within a day or two it was said that some 50,000 copies had gone out, and that reprints were on order ; widespread interest in the document was thus expected, and its issue may prove to be an event of great importance, the beginning of a new chapter in English local government. For several reasons we do not put expectations higher, for the moment. We remember the hopes with which in 1945 we and others hailed the establishment of the Local Government Boundary Commission. That Commission began under the happiest augury. There was widespread if not universal agreement between political parties, that reorganization of local government should be carried out in the way then contemplated, conflicts of interest being removed from detailed examination by parliamentary committees, with the reservation to Parliament of ultimate authority, and a saving for certain vested interests. It was difficult, in 1945, to think of any obstacle to reform that had not been foreseen by the advisers of the Coalition Government. Yet after four years of hard work, local investigations, and the publication of carefully considered reports, the Commission had produced nothing except paper, and it was wound up in 1949. A second reason for not being too sanguine, about results from the report and recommendations just issued, is that the associations (whose representatives drew up the recommendations) have still to consider them. The report urges the constituent bodies (in effect) to recognize that any recommendations of the sort must be based on compromise, and that a change in the recommended distribution of functions—for example—would affect the whole basis of the agreement between the representatives. Further, it is pointed out in the report that, if the four associations involved do endorse the recommendations of their representatives, no one of them can thereafter honourably accept modifications of the agreement offered while legislation is going through Parliament to give effect to the recommendations. It is however a big thing to ask, that the local government associations will swallow so detailed a document whole, and that each and all of them will resist temptation, if temptation comes along, to get the agreement modified to its own advantage in the course of parliamentary discussion. Nor indeed can any agreement between the associations deprive Parliament of its inherent right to modify any scheme which is put before it. It might happen that an influential group of private members in the House of Commons resisted some particular feature of any Bill introduced to give effect to the present recommendations ; under pressure from such a group, whose motives might be political, or might be based upon some theory of local government which it thought had not been sufficiently recognized in the agreed recommendations, or might derive from special devotion to public health, or agriculture, or infant welfare, or some other topic which the group considered would be served by altering the agreed recommendations, a severe strain might be placed upon the loyalty of the associations as between themselves. Most important of all, the present report and recommendations come from representatives of the associations other than the Association of Municipal Corporations. Virtually the whole of the excursions and alarums, which have disturbed the world of local government for a generation past, have arisen from proposals to confer the status of a county borough, or proposals to extend the boundaries of boroughs. The first sort of proposal was seen as a threat to county councils, and the second to the territorial integrity of urban districts, rural districts, and (sometimes) small boroughs bordering on large ones.

Before the first world war, the machinery created by the Local Government Acts, 1888 and 1894, had worked, in the hands of the Local Government Board, without much creaking and certainly without mistrust. The destruction of that Board, in accordance with theories accepted by Lord Haldane's Committee on the Machinery of Government ; the creation of a series of purely functional Ministries, and the entrusting of the Board's unavoidable supervisory duties to the new Minister of Health, put the cat among the pigeons. The move was false at best ; its destructive effect upon the orderly processes of evolution came about through a belief in "county" circles that Dr. Addison, the Minister of Health (who as Minister for Reconstruction had sponsored the Haldane Committee's proposals) was using his power of creating county boroughs by provisional order as a lever to promote " health " interest. From this mistrust there sprang the Royal Commission on Local Government, with its progeny of private Bills, years of conflict, and an atmosphere of hostility between local authorities of different types and sizes. The reconstitution of a Ministry of Local Government, in the last days of the outgoing Labour Cabinet, might have been a prelude to reconciliation, but it is not a happy omen that the title of " local government " had tacked to it first " planning " (with its host of financial and other controversial problems), and then "housing," a single "function" put in the forefront for political reasons, with electoral implications which are bound to overshadow local government as such.

Meanwhile, until it is known how far the Association of Municipal Corporations is prepared to accept recommendations in the sense of those in the present report, it is impossible to forecast the measure of success which the report is likely to attain, even if it is accepted by the bodies for whom it has been prepared. The Association of Municipal Corporations may, indeed, find it difficult to define an association policy, since it is a coalition of elements having no bond of union except the formal one, that its members possess charters of incorporation. There are at least three, perhaps five elements within that Association which might be expected to look in different ways at the report and recommendations drawn up by representatives of the other local government associations. There is the hard core of large county boroughs, whose one tier local government is probably safe, whatever reform of local government comes about, except for those situated in "conurbations," who may be affected by major changes—if such changes are ever achieved—in conurbation government. There is a smaller group of county boroughs which, if the other local government associations had their way, would be disestablished, and would enter a two tier system. There is

another small group, of so large a population that upon reorganization they could make a claim to be given county borough status, and then there is the large " middle class " of ordinary boroughs, who would be safe from abolition on a general reorganization, but would have no claim to county borough status. Lastly there are the boroughs so small in population that, upon a completely mechanical reorganization of local government, some of them might become contributory places in a rural district, whilst others, not so small, are yet likely enough to fall victims to reformers who cannot think except in terms of money, population, and the provision of efficient services. There is nothing in common between the extremes within the class of municipal borough and, as we have shown, an outsider can distinguish at least three strata even among non-county boroughs. The middling group is in much the same position as a good-sized urban district, and in some parts of the country is, as experience has shown, exposed to cannibalistic threats by some neighbouring county borough. Any settlement of policy by the Association of Municipal Corporations must, therefore, be as much of a compromise document as the report and recommendations by the other associations now before us. Time will show whether it is possible for the Association of Municipal Corporations, having settled its own policy, to come together with the other associations, in an agreed scheme which the Government of the day could accept and lay before Parliament.

Until this comes about, local government will always be exposed to the fissiparous tendency arising from extension Bills and Bills to confer county borough status—which, under the procedure prevailing at the moment, means debates on the floor of the House as well as discussion in committee if such a Bill receives a second reading.

Just before Parliament rose for the Easter recess, the debate upon the third Bill promoted unsuccessfully by the town council of Ilford, seeking the status of a county borough, was the occasion for the Minister of Housing and Local Government to indicate how he proposes to use such time as the Cabinet (and the Whips) are prepared to allow him in the remainder of this Parliament. There is, it seems, to be no further Bill from him in 1953. In 1954 he contemplates a Bill about town and county planning and a rating Bill, and " several other measures." He held out hopes of a local government Bill for 1955, thereby incidentally and inferentially contradicting rumours that the Government was planning to advise a dissolution in the coming autumn. (It is probable enough that rumours of an autumn dissolution in 1953 sprang from wishful thinking, on the part of an opposition which thinks it can, in vulgar phrase, " cash in " upon the cost of living, but it may equally be wishful thinking to suppose that the present Government, with its relatively small majority in the House of Commons, will hold on long enough to promote a local government Bill in 1955. All kinds of factors having nothing to do with local government will affect this matter. Mr. Macmillan's " several other measures " for 1954 might include something about rent restriction, though 1954 would be half way through the life of his Parliament, and, therefore, beginning to be a perilous time to interfere with rent restriction). Moreover, if this Government does last to 1955 it is, again, by no means certain, since it will then be within a year or so of the last possible date for a dissolution, that a local government Bill would be regarded as suitable. Mr. Macmillan used some cryptic language about this date, speaking of " agreement, balancing or exploiting small majorities." By 1955 the major part of the attention of parties must be devoted to preparations for the next election, even if that does not come until 1956. We do not therefore think that the " report and recommendations " just issued are necessarily the prelude to that settlement of outstanding local government issues, which is so much to be desired. The recommendations should, however, be studied with the utmost care since it is, if nothing more, a great step forward to have substantial agreement from the associations which speak for local authorities other than the boroughs—this, of course, on the assumption that the associations do agree to the scheme which their representatives have published.

VENUE FOR RATES

The levying of rates began on a purely local basis. The parish overseers were the rating authority (to adopt a modern phrase), and for purposes of the jurisdiction of the magistrates the parish lay within a known area. The rating authority of the present day covers many parishes in a rural district, and in an urban district or a borough an area more thickly populated and usually larger than the Elizabethan parish. For this and other reasons there are new methods of collection, of which anon. As regards the general rate there is no serious complication about venue, when a case has to be taken into court, even in a rural district divided between petty sessional divisions. It may be otherwise with rates levied over a wide area, such as the drainage rates, now regularized by the Land Drainage Act, 1930. The demand note for rates is likely to call upon the person liable for payment to do so at an office in some central place. In case of default, should the venue be that place, or the place where the land is situated, which is likely to be in a different petty sessional division and can be even in a different county ?

There are two opinions about this. At 111 J.P.N. 395, we expressed the view (upon advice) that the rated land was the place where the money was *prima facie* to be paid, and that this determined the venue for proceedings. We were advised that the rule of the common law in regard to money payable in virtue of an express covenant or contract to pay, *viz.*, that the debtor must unless it be otherwise agreed seek out his creditor : *Haldane* v. *Johnson* (1853) 8 Exch. 689, 695, was not appropriate to this form of liability, which as an uncovenanted payment issuing from land was more analogous to rent arising under a demise in which no express covenant was included, such a rent being at common law payable, unless otherwise agreed, upon the land demised : *Crouche* v. *Fastolfe* (1680) T. Raym. 418 ; *Rowe* v. *Young* (1820) 2 Brod. & Bing. 165, *per* Bayley, J., at p. 234.

Upon this understanding of the law, one would have to say that a request on the demand note to pay the rate at a named office was strictly a request, not in the nature of a command. Our senior contributor who so advised us points out that if a rating authority, drainage board, or other public body having power to levy rates has the right to insist on payment at its own office this means that the ratepayer is mulcted not merely in the amount of the rate but in the cost of journeying to that office or sending a remittance by post. This extra cost (he maintains) would need to be imposed by express enactment since the rate is not, as in the case of a contract, a debt which the person liable has voluntarily incurred.

The view we expressed, when thus advised, at 111 J.P.N. 396, was not the same as in P.P. 6 at 96 J.P.N. 241, and another of our senior contributors prefers the earlier view, basing himself on a sentence used by Jervis, C.J., in *Davis* v. *Burrell* (1851) 10 C.B. 821.

This case is entertaining, as a specimen of the way things happened a hundred years ago, with a full court deciding a £5 claim between landlord and tenant. Burrell was the owner of premises in central London, let to Davis on a lease by which he covenanted *inter alia* to pay the rates; the lease contained provisions for re-entry on default in this matter or others. In consequence of alleged breaches of covenant, Burrell entered while the premises were in charge of Davis's servant; Davis on returning asserted that the re-entry by Burrell was unlawful, collected a party of sympathizers, and attempted to turn Burrell out by force. Some damage of no great consequence was done; Burrell sent for the police, and Davis was convicted of what under subsequent statutes would have been called malicious damage. A civil action followed at the suit of Davis; this was heard first before the Chief Justice and then by the full Bench, and the legitimacy of Burrell's having gone into possession (in purported exercise of a right of re-entry arising out of breach of covenant of Davis) was the matter to be settled. In this action Davis admitted he had not paid the rates in accordance with his covenant, but justified himself upon the ground that the rates had never been demanded by the parish officers. Even so, Burrell could have succeeded, inasmuch as (whatever the obligation of an occupier towards the parish) Davis had as between himself and his lessor contracted to pay and had not done so. Jervis, C.J., did not however take this line. He found for Burrell on the ground that rates under the Statute of Elizabeth were due as soon as made, not merely on demand; before a warrant for distress could issue, there must (it was true) be a demand, but this showed that a demand was not a necessary preliminary except for a distress. It was the duty of the person liable to seek out the collector. Now this judgment, endorsed though it was by other members of the Court, is rather curious, in relation to the Statute of Elizabeth. First, the Statute does not say in terms that demand of the rate must precede a warrant for distress; it says that the warrant may issue on refusal, from which generations of judges, doubtless rightly, have held an express demand to be required, *i.e.*, you cannot obtain a warrant under the Statute where there has been mere neglect to pay. But surely it would have been an odd notion to seek "the collector" in an Elizabethan parish. The overseers were to lay up stocks to set the poor to work; they were to get the money rateably from every "parson, inhabitant, or other", and they were to be two, or four, or six, in number according to the size of the parish. They had no office and no staff—the whole scheme of the sections surely is that the overseers went round among their neighbours, assessing their ability to pay, collecting money on the spot, or (maybe) arranging to call back for it next week. It was to be some two centuries before a settled method was adopted of determining the measure of each man's ability to pay. Until this at least was done, the ratepayer would not know how much was expected from him; he had to wait for the overseer or overseers to come round to him, and until, again after some two centuries, paid assistant overseers became general, he could not go round to "the collector" with his money. In short, it looks as if the Court in 1851, headed by Jervis, C.J., had translated a conception, accepted in the nineteenth century as being appropriate to commercial contract debts, into terms of a non contractual obligation created by Parliament in the sixteenth century (the Statute of 43 Elizabeth, just falling in the seventeenth century, was a re-enactmant). At the present day, certainly, what Jervis, C.J., said about the poor rate has stood for a hundred years and cannot usefully be questioned in regard to the general rate—even though conditions have changed between 1851 and 1953 nearly as much as between 1603 and 1851. Few ratepayers wish to question the idea of paying at the collector's office, because few of those who actually pay are now of the type of householder which prefers to have a collector call for money at the door. The owner-occupier, and the landlord who pays rates under compulsory compounding or by agreement will nowadays draw and post a cheque, and will therefore accept unquestioningly the rating authority's intimation that the money is to be paid at their office, not upon the rated premises. It is only when a warrant is to be sought that the proper place of payment becomes (incidentally) important. We have set out here the opposing points of view. For practical purposes, rating authorities, and authorities who recover rates in the same way, by virtue of s. 31 of the Land Drainage Act, 1930 (for the latter of whom the point may be of more importance than in regard to general rates) can almost certainly act upon what Jervis, C.J., said. This means applying for process to the court which covers the place where they have their office. But we do not feel certain that in strict law this is the sounder view.

THE NATIONAL COUNCIL OF SOCIAL SERVICE

ANNUAL REPORT

The annual report of the National Council of Social Service gives a detailed account of continued useful work in various spheres. Reference is first made to the annual reports of area and local councils which exist in some 200 urban communities. As in the case of the National Council itself, the position of many councils has been made more difficult by the financial stringency of recent times, by heavy taxation and rising costs. The reports indicate that in many places, new undertakings have had to be postponed, while in others it has been impossible to initiate new social experiments or to plan for a systematic expansion of existing services. Amongst interesting activities undertaken during the year are the setting-up of a family-life advisory service with a view to the planning and provision of education for those contemplating marriage; the provision of help for those who seek advice in their matrimonial and family problems; work with problem families; co-operation with the welfare services in county and county borough areas; participation in the work of the welfare sections of the Civil Defence Corps; and the setting-up of local groups to study and make known to the public proposals contained in development plans prepared under the Town and County Planning Act, 1947. The Standing Conference of Councils of Social Service continues to provide the central machinery through which local councils are advised and helped in the development of policy and new work.

RURAL LIFE

The provision of village halls is one of the most important functions of the rural committees and 169 temporary halls have been provided out of a target of 200 for England and Wales. It is hoped to provide more permanent halls as soon as the restrictions on building have been removed, and in this connexion to make a wide use of voluntary labour. The Central Rural Committee had under constant consideration throughout the year the human and social problems present in the temporary housing estates, and Rural Community Councils—notably in Oxfordshire, Lincolnshire, and other parts of the Midlands—have taken active steps to contact the people concerned and to improve social conditions. It is mentioned that a year ago there were 1,640

camps throughout the country in which over 37,000 families were living.

CITIZENS ADVICE BUREAU

Perhaps the most useful activity which the National Council has ever sponsored was the establishment of the citizens advice bureaux which are recognized as valuable agencies for bringing information and advice to thousands of individuals who are puzzled or defeated by the pressure and complexity of life. When the Council first took the initiative in establishing the bureaux at the beginning of the last war, it was clear that the work would largely depend upon its ability to establish a central service. The Council has, therefore, been very concerned that it has not proved possible to find from other sources sufficient funds to replace the Government grant which was terminated in 1950. It is satisfactory to record that bureaux in all part of the country contributed £1,100 towards the headquarters expenses during the year notwithstanding the fact that many of them have considerable difficulties in financing their own activities.

NATIONAL OLD PEOPLE'S WELFARE COMMITTEE

The National Old People's Welfare Committee continues to play an important role as a promotional and co-ordinating body. It brings together for consultation, study and action, representatives of central government departments, local authorities, the Churches and voluntary organizations through 831 local Old People's Welfare Committees; forty-nine county committees; and twelve regional committees. These bodies ensure the provision of a wide range of welfare services for old people throughout the country. There can be no doubt as to the value of this co-ordination and co-operation to individual old people. Where, before, there had been disconnected efforts to help, now there are growing up concerted plans to bring older people back into touch with the community by means of clubs, friendly visiting, and many forms of personal service. Through its national and local representation and contacts the National Committee is able to make available to government departments, voluntary societies, students at home and abroad, and to many individuals, up-to-date information and experience on matters affecting the welfare of old people. It is mentioned in the report that since the passing of the National Assistance Act, local authorities have provided many small homes, and the National Committee, knowing that their numbers were increasing rapidly and that there were already many voluntary homes open, realized that there might be a shortage of suitable staff. With the aid of generous grants from the National Corporation for the Care of Old People, training courses for matrons have accordingly been arranged. The importance of this experiment has been widely recognized as is shown by the number of appointing bodies—both statutory and voluntary—who have turned to the National Committee to recommend suitable staff. Refresher courses have also been held.

CENTRAL CHURCHES GROUP

During the year this Group concentrated on the special problems arising in the housing areas of the new towns for which Development Corporations are responsible; the out-county estates built by the London County Council and the expanded towns which are intended to relieve over-population in the cities. While it is the declared policy of all the authorities concerned to encourage the growth of community life, their effort to do so are being frustrated by the absence of suitable meeting-places. It is suggested in the report that what is required is nothing less than the creation of new communities; and that the building of houses is not enough. Representation has been made to the appropriate authorities accordingly.

OVERSEAS AND INTERNATIONAL

From all over the world the National Council receives inquiries about British social services and especially about the ways in which voluntary societies are acquitting themselves in the new circumstances. Thus the Council inevitably becomes concerned with the developing range of overseas and international social work which, in turn, involves contacts and relationships with government departments, international agencies, and national voluntary organizations and groupings at home and abroad. In this connexion mention is made of the British National Conference on Social Work which is to be held in London in April, 1953, and to the arrangements for sending a British delegation to the International Conference held in Madras in December, 1953. In its international work the Council works in close co-operation with the British Council.

OTHER ACTIVITIES

Amongst other activities mentioned in the report are those of the National Federation of Community Associations, which covers 1,461 associations and neighbourhood groups; the National Association of Women's Clubs, of which there are 551 with a membership of 19,600; the Standing Conference of National Voluntary Organizations; and the Women's Group on public welfare.

FINANCE

The National Council, in common with many other voluntary organizations, is finding it increasingly difficult to finance its various activities and the expenditure for the year exceeded the income by £7,874. As a result, the Council's small reserves have been almost exhausted and it has been necessary to make very substantial reductions in expenditure. It is pointed out that inevitably this will affect the Council's work in all departments, and will mean that many urgent tasks which the Council is being pressed to undertake will have to be postponed. The Council earnestly appeals for more support of its work, believing that it is carrying out a task of unique importance in the field of voluntary social work.

ADDITIONS TO COMMISSIONS

KING'S LYNN BOROUGH

John Davies Harbage, Kia Ora, West Winch Road, King's Lynn.

MACCLESFIELD BOROUGH

Ewen Cameron, Woodbank, Higher Fence Road, Macclesfield.
Mrs. Honor Dempster Doncaster, Swanscoe Cottage, Hurdsfield, Macclesfield.
Samuel Foden, 35, Thomas Street, Macclesfield.
Benjamin Holden, M.B., F.R.C.S., Ellesmere, Buxton Road, Macclesfield.
Harold Mellor, 8, St. Paul's Road, Macclesfield.
Mrs. Bertha Perkin, 16, Barracks Lane, Macclesfield.
Mrs. Amy Marian White, Foden Bank Cottage, Byrons Lane, Macclesfield.

MANSFIELD BOROUGH

Alfred Arthur Armstrong, 4, Stella Villas, Nottingham Road, Mansfield.
Leonard Roberts Moss, Ravenscroft, Cross Hill Drive, Mansfield.
William Barrington Royce, D.F.C., Redleaf, High Oakham Drive, Mansfield.
John Goulton Sooby, Grayfield, Portland Street, Mansfield.
Miss Dorothy Wainwright, 1, Granby Avenue, Mansfield.

MARGATE BOROUGH

Major John Jackson Stillingfleet Bury, M.C., Canterbury House, Westgate-on-Sea.
George Simpson, M.B., Ch.B., Berrydown, Cliffe Avenue, Margate.

PONTEFRACT BOROUGH

Mrs. Lois Walsh, Arlington, Mill Hill Avenue, Pontefract.

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Sir Raymond Evershed, M.R., Jenkins and Romer, L.JJ.)

METROPOLITAN WATER BOARD *v.* HERTFORD CORPORATION

March 2, 3, 31, 1953

Rates—Water undertaking—"Profits basis"—Water intake—Special fitness—Altitude of hereditament.

CASE STATED by Lands Tribunal.

The Metropolitan Water Board occupied under statutory powers as part of their undertaking a hereditament consisting of an intake from the River Lea with screen, fender, gauge house and keeper's living accommodation, sluice house, and store hut, a natural spring of water, about 1,950 yards of channel, an area of land about eight acres in extent, bridges, an iron post and rail fence along the New River, and short lengths of forty-eight-inch and thirty-inch mains. Water from the River Lea flowed through the intake and was then conveyed by gravity, first along a channel and thereafter by an artificial water course known as the New River to the filter beds of the board at Stoke Newington, a total distance of about twenty-four miles. The board could usually take about 22½ million gallons a day at this intake. At the Stoke Newington filter beds the level of the filtered water, ready to be pumped into supply, was about sixty feet higher than the level of other water works of the board whereby about sixty feet of pumping height is saved. The same advantage could be obtained, subject to the necessary statutory or other power existing in or being obtained by the board and subject to the construction of a new intake, at any point on the stretch of the River Lea known as the Hertford-Ware-Pound extending to a mile and a third, but not further downstream. The undertaking of the board extended into seven counties and ninety-eight rating areas and comprised some 255 individual hereditaments. There was no dispute (i) that the method of assessment appropriate was the "profits basis," and (ii) that the net annual value in cumulo of the hereditament comprised in the undertaking of the board should be taken to be £1,706,016. The controversy was the capital value to be placed on the hereditament in question.

The Hertford Corporation submitted a valuation of £5,000 as representing the net annual value of the hereditament ascertained in accordance with s. 22 (1) (*b*) of the Rating and Valuation Act, 1925, without regard to the value of the undertaking in cumulo, but, in recognition of the applicability of the "profits basis," reduced that figure by one third to £3,333 to fit in with the cumulo. The corporation regarded the value attributable to the intake as being capable of being estimated, not by process of calculation or by reference to area of land and structural values, but as a matter of skilled professional judgment. The valuation was intended to represent the special value of the hereditament, taking into consideration its special fitness for the board's purposes, the special value being regarded as lying in a small area of about 210 square yards, being the intake and the site of the gauge house, and not in the channels on the hereditament any more than in the course of the New River all the way to London.

The board submitted a valuation giving a net annual value of £429 for land covered with water (with a rateable value of £343) and £221 for land not so covered, making a total net annual value for the hereditament of £650. The board's calculation began with the agreed cumulo value of £1,706,016, with a capital value of the entire undertaking estimated at £103,042,380, so that the resulting percentage of the annual value was 1.656 *per cent.* The board took the value of the land as agricultural land at £200 per acre, adding £456 per acre on account of the natural channels and a further sum for buildings and other structures at double their estimated cost value in 1939, but no addition was made for the altitude of the intake and consequent benefit of gravity in the conveyance by way of the New River of the water passing through it.

The valuation officer, using the same method as the board, submitted a valuation giving a net annual value of £677 (rateable value, £542) for land covered with water and £288 for land not so covered, making a total net annual value of £905. The Lands Tribunal were of opinion that it was not practicable to ascertain a net annual value for the hereditament truly relative to the agreed rental value of the whole undertaking purely by process of estimating and comparing respective capital values and that the value of the hereditament was enhanced by its fitness for assisting the board to achieve the saving in pumping height, and they placed a net annual value of £1,200 (with a rateable value of £960) on the land covered with water, and a net annual value (and rateable value) of £300 on land not so covered. The board and the valuation officer appealed.

Held: (i) the "profits basis" was no more than an aid to the ascertaining of the rent at which the hereditament might reasonably be expected to let from year to year on the terms stated in s. 22 (1) (*b*) of the Rating and Valuation Act, 1925, in cases of a particular class. It laid down no inflexible code, but the manner of applying its general principle admitted of variation to suit the peculiarities of individual cases, and there might be cases in which there were special circumstances sufficing to justify its total exclusion. Nevertheless, the "profits basis" had behind it the sanction of long practice and judicial approval over many years, and at the present time it might be said that, as a matter of law, it was *prima facie* the right method to apply in a case of this kind, the onus of showing special circumstances justifying a departure from it being on those who advocated such departure.

(ii) the right way of applying the "profits basis" was to estimate the aggregate capital value of all indirectly productive hereditaments, compute the appropriate percentage thereon in the way contended for by the appellants, and take that percentage of the capital value of the particular hereditament as constituting its net annual value. The Lands Tribunal departed from that normal treatment of indirectly productive hereditaments on the "profits basis" of assessment without any findings of fact to justify such departure, and that failure amounted to an error in law.

Kingston Union v. *Metropolitan Water Board* (90 J.P. 69; [1926] A.C. 331), applied.

(iii) it was not legitimate to attribute a special value to the hereditament on account of the altitude of the intake, measured by reference to the pumping costs saved by the board by passing the water received through the intake into the New River and along it by gravity to the filter beds at Stoke Newington, whence it could be distributed (still by gravity) to the consumers in certain relatively low lying parts of the board's area; the altitude was, in effect, relevant only in the sense that it narrowed the range of hereditaments on the River Lea from which the board seeking land for the purpose in view would be likely to make its selection, and, by narrowing the range, increased to some extent the price which the hypothetical vendor would be likely to require and which the board might reasonably be prepared to pay, but it was wrong to measure that increase by reference to the loss the board would sustain if deprived of the advantageous use it in fact made of the water received through the intake by reason of the layout and the relative level of other parts of its system.

Metropolitan Water Board v. *Chertsey Assessment Committee* (80 J.P. 137; [1916] 1 A.C. 337) applied.

(iv) the appeals would be allowed and the case remitted to the tribunal with directions (*a*) that, unless they were of opinion that there were special circumstances justifying a different course, they should ascertain the net annual value in accordance with the procedure indicated above; (*b*) if there were special circumstances, to state the facts constituting the same and to indicate the procedure adopted in ascertaining the net annual value; (*c*) to make such revisions in their valuation as they found necessary.

Case remitted.

Counsel: *H. B. Williams, Q.C.*, and *C. E. Scholefield*, for the Metropolitan Water Board; *M. Lyell* for the valuation officer; *Rowe, Q.C.*, *Willis, Q.C.*, and *Squibb*, for the corporation.

Solicitors: *H. R. McDowell; Solicitor, Board of Inland Revenue; Sharpe, Pritchard & Co.*, for *Longmores*, Hertford.

(Reported by F. Guttman, Esq., Barrister-at-Law.)

(Before Sir Raymond Evershed, M.R., Jenkins and Hodson, L.JJ.)

LESLIE MAURICE & CO., LTD. *v.* WILLESDEN CORPORATION

March 27, 1953

Housing—House unfit for human habitation—Notice to execute works—Reasonable expense—Material date for consideration—Housing Act, 1936, *s.* 9 (1) (3), *Middlesex County Council Act*, 1944, *s.* 260 (1) (2).

APPEAL from Willesden County Court.

On June 27, 1952, the local authority served a notice on the agents of the lessee of a house in Kilburn, in the county of Middlesex, requiring them, under s. 9 (1) of the Housing Act, 1936, and s. 260 of the Middlesex County Council Act, 1944, to execute certain works which would, in the opinion of the authority, render the house fit for human habitation. The agents appealed to the county court against the notice under s. 15 (1) of the Act of 1936 on the ground that (i) the estimated cost of the works necessary to render the house fit for human habitation did not constitute a reasonable expense having regard to the value of the house after the completion of the works; (ii) that their principal was a lessee under a lease which had only thirty-one years to run and that he had spent an average of £58 a year on repairs and maintenance for the preceding three years, which facts had to be taken into consideration under s. 260 (2) (*a*) and (*c*) of the Middlesex County Council Act, 1944; (iii) that the notice was incorrect in form. At the

date of the notice the lessee was the lessee of the house in question, but on August 21, 1952, he purchased the freehold reversion of the house, the sale and conveyance being completed on October 30, 1952. The hearing of the appeal was concluded on December 1, 1952. The county court judge estimated the costs of works at £350, and found that, on the basis of the value of the house under s. 9 (3) of the Act of 1936, those costs were not unreasonable, having regard to the value the house would have after the repairs had been done, but, having regard to the length of the unexpired period of the lease, under s. 260 (2) (*a*) of the Act of 1944 the expenditure of £350 could not be reasonably justified by the value of the residue of the term to the occupier when it was spent. He allowed the appeal and quashed the notice, and the local authority appealed to the Court of Appeal.

Held, the material date for the consideration of all the circumstances relating to the reasonableness of estimated costs of works required by a notice under s. 9 (1) of the Housing Act, 1936, was the date when the case was heard; in the present case at that date the occupier had become the owner of the freehold of the house, and, therefore, the special defence of s. 260 (2) (*a*) was not longer available to him; as the county court judge found the estimated costs reasonable in the case of a freeholder the appeal must be allowed and the validity of the notice of June 27, 1952, restored.

Appeal allowed.

Counsel: *John Stephenson* for the landlord; *Heathcote-Williams, Q.C.*, and *Norman King*, for the corporation.

Solicitors: *A. Rawlence; Sharpe, Pritchard & Co.*, agents for *R. S. Forster*, Kilburn.

(Reported by F. Guttman, Esq., Barrister-at-Law.)

COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Byrne and Parker, JJ.)

R. *v.* PHILLIPS

March 31, 1953

Criminal Law—Magistrates—Summary offence—Offence punishable by more than three months' imprisonment—Right of prisoner to trial by jury—Other offence disclosed on depositions—Substitution in indictment—Conviction quashed—Summary Jurisdiction Act, 1879 (42 *and* 43 *Vict., c.* 49), *s.* 17—*Administration of Justice (Miscellaneous Provisions) Act*, 1933 (23 *and* 24 *Geo.* 5, *c.* 36), *s.* 2 (2) (i).

APPEAL against conviction.

The appellant appeared before a court of summary jurisdiction on charges of wilfully making a statement false in a material particular in connexion with an application for a licence for a motor vehicle, contrary to s. 9 (1) of the Vehicles (Excise) Act, 1949, which provides that a person guilty of the offence "shall be liable on summary conviction to a penalty not exceeding £50 or to imprisonment for a term not exceeding six months." As the offences were punishable by more than three months' imprisonment, the appellant had a right, under s. 17 of the Summary Jurisdiction Act, 1879—which he exercised—to go for trial by jury, and he was committed for trial on those charges to Buckinghamshire Quarter Sessions. At quarter sessions the prosecution substituted charges of making a false declaration, contrary to s. 5 (*b*) of the Perjury Act, 1911. In doing so they relied on s. 2 (2) (i) of the Administration of Justice (Miscellaneous Provisions) Act, 1933, as the offences under the Perjury Act were disclosed in the depositions. The appellant was convicted on those charges.

Held, that the Court of Criminal Appeal could not approve of another charge being substituted for the charge in respect of which the appellant originally appeared before the justices in a case where quarter sessions obtained jurisdiction only by reason of the appellant having exercised his right to trial by jury under s. 17 of the Summary Jurisdiction Act, 1879, and the convictions under s. 5 (*b*) of the Perjury Act, 1911, must be quashed. The court, however, affirmed convictions of offences under the Bankruptcy Act, 1914, in respect of which no matter calling for report arises.

The appellant in person. Counsel for the Crown: *E. Daly Lewis.*

Solicitors: *Ellis & Ellis*, for *Horwood & James*, Aylesbury.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

R. *v.* BASS

March 30, 1953

Criminal Law—Evidence—Confession—Judges' Rules—Failure to caution prisoner.

Criminal Law—Evidence—Police officer's notebooks—Denial of collaboration.

APPEAL against conviction.

The appellant was convicted at the County of London Sessions of breaking and entering a lock-up shop and larceny, and he was sentenced to twelve months' imprisonment. Police officers, with a search warrant, had called at the appellant's house and searched it, but found nothing to connect him with the larceny. Some days later, in response to a message left at his house, the appellant called at Paddington Police Station, where he was asked to go into the C.I.D. Room. He was there interviewed for three quarters of an hour without being cautioned. He then made a confession. Two police officers subsequently made notes of the interview in their notebooks, and, on being cross-examined by defending counsel, denied that they had made them in collaboration. The deputy-chairman refused to allow the jury to see the notebooks. The appellant appealed on the grounds (i) that the confession should not have been admitted, because it had been made when virtually he was in custody and had not been made voluntarily, and (ii) that the deputy-chairman had been wrong in refusing to allow the jury to see the notebooks.

Held, (i) that the appellant was in custody and had been questioned by the police without being cautioned, and there was, therefore, a breach of the Judges' Rules; the deputy-chairman might, in his discretion, have refused to admit the confession, but, as he had admitted it and had not directed the jury on the vital question whether it was made voluntarily, the conviction must be quashed on that ground; (ii) that, as the whole case for the prosecution rested on the evidence of the police officers alone, and as they had denied collaboration in the making of their notes, the jury should have been allowed to see their books.

Counsel: *Petre Crowder* for the appellant; *Sir John Cameron* for the Crown.

Solicitors: *Philip Conway, Thomas & Co.*; *Solicitor, Metropolitan Police.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MAGISTERIAL MAXIMS VII

There was once a Young Counsel who, finding his Practice growing at a Comfortable Speed, began to wonder whether this Pleasant State of Affairs would continue, or whether it was but a Splash in the Legal Pan.

Filled with the Natural and Understandable Wish that the former should be the Situation, he would go to the Greatest Pains to ensure that he was Right in the Smallest Particular, and that his Opinions and Pleadings were Flawless in the Highest Degree. Indeed, in Court he became so Tedious that one County Court Judge, in the Privacy of the Robing Room, remarked to his Registrar that a New Terror had been Added to Advocacy.

None, however, could Complain of this, and he was Looked upon by many as a Model Counsel in all Respects, and for Quite a Time his Practice continued to Grow, until for some—to him—Inexplicable reason, Instructions and Briefs arrived Less Frequently than Formerly. Whilst, for a Time, this gave him a Golden Opportunity of Clearing Arrears of Work, as his Chambers became less Cluttered Up, his Fee Book became, in proportion, Less Heartening to gaze upon.

Filled with Dismay—for he knew, without Inward Boasting—that he had done his Work Conscientiously and Well—he Reversed the Normal Order of things and Took Solicitor's Opinion—choosing for that purpose an Old Practitioner who had known him since Boyhood, and whom he could approach Without Embarrassment.

On hearing the Facts, the Representative of the Lower Branch nodded wisely, and remarked that in Certain Places he had already heard Whispers of Criticism of the Counsel's Methods, as being Too Long, Too Tedious and Too Careful, with the Consequent Delay in many instances of Solicitors and litigants alike.

"Too Careful" exclaimed the Younger Man, with some Heat—"Can it be Possible to be Too Careful?"

His Mentor quoted in reply the Latin Tag:

"Deliberando saepe perit occasio," of which a Peculiar, though not unreasonable Translation might be "When Opportunity Knocks do not Spend Too Much Time putting the House Tidy before Opening the Front Door."

Or, in another manner, as the Peerless and Inestimable Kai Lung, has put the matter, in the words of his Biographer Bramah, in a sentence which every Solicitor, Counsel, Justice and Judge might well take to Heart:

"He who considers EVERYTHING, decides NOTHING."

AESOP II.

JUDGES' SALARIES

Isn't it about time to show them
That we appreciate what we owe them?
But there are evidently some people still
Who insist upon taxing their Bill.

J.P.C.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

THE COST OF EXTENSION BILLS

I was extremely interested to read the article at 117 J.P.N. 182-3 under the above title, as this authority has just been put to the expense of a 4*d.* rate in opposing the extension proposals contained in the Rochester Corporation Bill which was promoted in Parliament last year. Under this Bill the corporation endeavoured to absorb more than 8,000 acres of the rural district, but as a result of this council's opposition and objections by the county council, the ultimate extension amounted to less than 200 acres, which was agreed by the district council before the proceedings were heard before the Select Committee.

My council was seriously concerned at the hardship that was imposed on the ratepayers in defending their rights, and reference to this was made in the Petition against the Bill.

Yours faithfully,
A. E. STROUD,
Clerk.

Strood Rural District Council,
Council Offices,
Frindsbury Hill,
Strood, Kent.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

An " old " off-licence is a justices' off-licence for the sale of wine, spirits, liqueurs, sweets or cider (*not* beer) which was in force and has been held by the same person continuously since June 25, 1902—*see* Licensing (Consolidation) Act, 1910, sch. 1, Pt. 1.

Such licences after half a century must now, or very soon, be extinct, and it would be most interesting to know if any survive.

Yours faithfully,
J. WHITESIDE.

The Court House,
Exeter.

The Editor,
Justice of the Peace and
Local Government Review,

DEAR SIR,

May I be permitted to point out a small but important error in your otherwise excellent summary of the harbouring case (No. 13 in issue for February 14) consisting of a superfluous " *not* " in the fourth line of the sixth paragraph ?

Unfortunately my copy is often held up on its way to me so that I have only just had an opportunity of reading the report—otherwise I should have written sooner.

Yours very truly,
GUY SIXSMITH.

Stipendiary Magistrates' Room,
Law Courts,
Cardiff.

[We are obliged to our learned correspondent. The error to which he refers appeared in another report from which our contributor, R.L.H., partially took as a basis for his contribution.—*Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

ALLEGED OBSTRUCTION OF SAMPLING OFFICER

I observe that in the issue of your journal dated February 28, 1953, under the heading " Law and Penalties in Magisterial and Other Courts " (No. 16) you have printed a report concerning certain proceedings which were recently instituted by the Corporation.

I would draw your attention to the fact that the statute under which these particular proceedings were taken was the Food and Drugs Act, 1938, s. 78, and not the Sale of Food (Weights and Measures) Act, 1926, as reported by your Journal.

I am,
Yours faithfully,
T. B. BOWEN,
Town Clerk.

The Guildhall,
Swansea.

[Our contributor, R.L.H., thanks our learned correspondent for drawing attention to this error.—*Ed., J.P. and L.G.R.*]

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 31.

TRANSPORTATION OF WINE IN A HORSE-BOX

A father and son pleaded guilty recently, when charged at Hastings Magistrates' Court with offences arising out of the transportation of wine in a horse-box.

The son was summoned for using a Bedford cattle/horse-box licensed at a certain rate under the Vehicles (Excise) Act, 1949, for a purpose which brought it within a class of vehicles for which a higher rate of duty was chargeable, contrary to s. 13 of the Act, and also for using a goods vehicle, namely, a cattle/horse-box for the carriage of goods in connexion with a trade or business carried on by him, otherwise than under a licence granted under Part I of the Road and Rail Traffic Act, 1933, contrary to s. 1 of the Act. The father was summoned for aiding and abetting the second offence.

The facts outlined by the prosecution were that on December 17, 1952, at King's Road, St. Leonards-on-Sea, a constable saw the younger defendant unloading cases of wine from the vehicle in question to off licensed premises. He noticed that the Road Fund licence was issued by East Sussex C.C. for goods/farmers rate. The younger defendant, who described himself as a wine shipper, stated that he was delivering French wines on behalf of a limited company of which his father was Managing Director, that his father imported the wine in hogsheads, and bottled them on his farm at Lewes, and from there they were delivered to various shops.

The vehicle in question was in fact owned by the father and used in connexion with his farm, no carrier's licence having been taken out in respect of it. The difference in duty payable was £19 *per annum.*

For the defendants, it was stated that the vehicle was only used for the purpose of carrying wine on this one occasion, and that this had occurred owing to the Christmas rush, when all the company's vehicles were otherwise engaged.

The younger defendant was ordered to pay an Excise penalty of £5 and 21*s.* costs, and fined 20*s.* and ordered to pay 21*s.* costs and 17*s.* 6*d.* witnesses fees on the first two summonses respectively, and the older defendant was fined 20*s.* and ordered to pay 21*s.* costs.

COMMENT

Section 13 of the Act of 1949 provides that where a licence has been taken out in respect of a mechanically propelled vehicle at a certain rate, and while the licence is in force the vehicle is used in an altered condition or for a different purpose which brings it within a class or description of vehicle to which a higher rate of duty is applicable, duty shall be paid at the higher rate and thereupon the licence may be exchanged for a new licence. Subsection 2 of the section provides that if this provision is not observed an offender shall be liable to whichever is the greater of the following penalties, *viz.* : (*a*) an excise penalty of £20 or (*b*) an excise penalty of an amount equal to three times the difference between the duty actually paid on the licence and the amount of duty at that higher rate.

Section 1 of the Act of 1933 contains multitudinous provisions relating to the licensing of goods vehicles. Section 35 (2) of the Act provides that offences under s. 1 shall be liable to be punished in the case of a first offence with a fine of £20 and in the case of a second or subsequent offence £50.

(The writer is indebted to Mr. L. A. Edgar, clerk to the Hastings Justices for information in regard to this case.) R.L.H.

PENALTIES

Woodstock—April, 1953—permitting the use of two lorries with inefficient steering. Fined a total of £10. The drivers of the lorries pleaded guilty to using the vehicles in an unsafe condition, and each was fined £2.

Wimbledon—April, 1953—failing to behave in a civil and orderly manner while conductor on a public service vehicle. Fined 20*s*. Defendant admitted striking a passenger in the face causing his nose to bleed profusely. Defendant alleged, and the passenger denied, that the passenger had made an uncivil remark to him.

Bristol—April, 1953—stealing £8 while employed as a domestic help. One month's imprisonment. Defendant, a woman of forty-five, was stated to have been before the courts on seven previous occasions. She was described as a friendless and unhappy woman.

Bristol—April, 1953—accepting two legs of pork from a farmer. Fined £3 3*s*., to pay £1 1*s*. costs. Defendant, who worked on the farm each year, accepted gifts of poultry or meat in lieu of payment. The legs of pork were given in return for help with harvesting. The pork was confiscated, and defendant's family lost their Christmas dinner.

West Bromwich—April, 1953—(1) Having an insecure load on a lorry. (2) Failing to keep a record. (1) Fined £3. (2) Fined £1. A sack of coal fell from defendant's lorry as a police patrol car was passing it.

Newtownards—April, 1953—stealing fifteen prams value £165. Three defendants. Each fined £25 and ordered to pay £165 restitution between them. Defendants who stole the prams from their employers were given two months to pay the fines, after £165 had been paid into court.

Aldridge—April, 1953—(1) Driving a three-wheeled van whilst under the influence of drink. (2) Driving while uninsured. (1) Fined £3, to pay £15 4*s*. 6*d*. costs and disqualified from driving for five years. (2) Fined £2. Disqualified from driving for twelve months. Defendant, a seventy-five year old Boer War Veteran, who was stated to be ill with bronchitis, was told by the Chairman that virtually he would never drive again in his lifetime.

Old Bailey—April, 1953—stealing £1,450 belonging to his employers. Two and a half years' imprisonment. Defendant, a thirty-one year old bank cashier, pleaded guilty, and asked for a similar offence involving £2,133 to be taken into consideration. Defendant attributed his trouble to betting and money lenders.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

The Prevention of Crime Bill which was passed without a division by the Commons was given a Second Reading by sixty to three votes in the House of Lords.

Lord Saltoun, who moved the rejection of the Bill, said he was afraid that the Bill would be used in order to make up a defect in evidence against some one whom the police suspected.

" A moment like this, when I think all of your Lordships, and not least myself, are nourishing an uneasy feeling that we may have hanged a man for something he did not do, is not a moment to extend the law of presumptive evidence in the way we are doing " he said.

If the Government were of the opinion that crimes of violence were on the increase, the proper course for them to take was to do everything they could to promote the recruitment of police and, if necessary, to increase the penalties for such crimes. They should also take the people into their confidence and ask them to assist the Government as much as possible, partly by not exposing themselves to attack and partly by being ready to defend themselves if they were attacked.

Dealing with the term " offensive weapon," Lord Saltoun said that a weapon was neither offensive nor defensive—that lay in the hand and the mind of the user. A knife or a cosh could be used equally for defence.

If no one was to be allowed to carry any sort of weapon to defend himself or herself against the strong and armed, and defence was to become a peculiar function of the policeman, would the relatives of the killed or injured have a right to compensation if the Government failed in the discharge of the duty they were undertaking ?

The Bill did not add any appreciable penalty to the rascal who used the weapon and committed some crime of violence. He would very much welcome such legislation.

Earl Jowitt said he was not happy either about the Bill or about Lord Saltoun's reasons for opposing it. He thought the Government were completely right in saying that it would be panic legislation to say that the state of affairs today was so bad that peaceful and law-abiding citizens should walk about the streets armed to the teeth to protect themselves. They were right in saying that the primary duty of protection rested on the police.

But it behoved the House to look at the Bill with some care and anxiety to see if they could improve it. None of them much liked the drastic powers which were being given to the police and which might effect the life of the ordinary citizen in all sorts of ways. He would vote for the Second Reading, but they would have to consider the Bill carefully in Committee.

He wanted, if he could, to save innocent people from being troubled. He felt that the reason why the Bill would probably work all right was because, taking it by and large, the police had great commonsense. But he suggested that it might be an annual Bill so that they should see how in practice the intention of the Bill was working.

The Lord Chancellor, Lord Simonds, said that, although he agreed that the language of the Bill must be scrutinized in the closest possible way, he thought it might be difficult to find words more apt than those that were in the Bill to give effect to its purpose.

The Bill was not panic legislation but a moderate measure designed to assist the police in the prevention of what was called " a wave of crime."

The Government would welcome the assistance of Lord Saltoun, or any other noble Lord, in defining what was an " offensive weapon." If a person went out with an umbrella or a stick, it was quite clear that something more had to be proved against him than the mere possession of the umbrella or the stick. It had to be proved that he intended to use that umbrella or stick for the purpose of causing injury. But there were articles which, although not normally used for purposes of injury, were capable of being so used ; and he conceived that it might be possible in certain cases for the police to prove that such articles were carried with that intent. For instance, in the case of a bicycle chain carried in a mackintosh pocket, the police might suspect a man because they had known him to use a bicycle chain before for the purpose of causing injury.

He went on to say that the representations as to whether the Bill should be an annual measure would be conveyed to the Home Secretary. But he did not hold out much hope on that point.

CAPITAL PUNISHMENT REPORT

In the Commons, at question time, Brigadier Frank Medlicott (Norfolk C.) asked the Secretary of State for the Home Department how soon he now anticipated that the Royal Commission on Capital Punishment would make their report.

The Parliamentary Under-Secretary of State for the Home Office, Sir Hugh Lucas-Tooth, replied that the Secretary of State had been in touch with the Chairman of the Royal Commission, who informed him that the Commission arrived at their conclusions on all the questions referred to them some time ago ; that the preparation of the final report, involving as it did a close examination of many subjects, some of them highly technical, had necessarily taken a long time ; but that it was now practically complete and a large part of it already in the hands of the printers.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, April 14

PREVENTION OF CRIME BILL, read 2a.

HOUSE OF COMMONS

Wednesday, April 15

SLAUGHTER OF ANIMALS (PIGS) BILL, read 1a.

PERSONALIA

APPOINTMENT

Mr. S. W. Coleman, clerk to the Tendring Rural District Council, has been appointed town clerk to the Municipality of Kitwe in Northern Rhodesia. Mr. Coleman, who was admitted in 1951, was formerly deputy clerk to the Whitstable U.D.C. In 1949 he was appointed deputy clerk to the Tendring R.D.C., and in 1950 became clerk. During the war Mr. Coleman served in the Royal Engineers, being taken a prisoner in Greece in 1941.

OBITUARY

Dr. W. B. Cockhill, medical officer of health for the borough of Kendal for thirty-two years, died recently at the age of eighty-eight. He was elected a freeman of the borough on his retirement seven years ago.

NAMES AND SIGNS

" Shall I not take mine ease in mine inn ? " cries Falstaff, in *The Merry Wives of Windsor*, and six centuries of English tradition answer him " You shall ! " From Chaucer to Chesterton great writers have celebrated the convivial atmosphere of the English Hostelry, and some of the most rollicking passages in our literature owe their inspiration to this most typical of English institutions. The *Tabard* of the *Canterbury Tales*, the *Garter* of the *Merry Wives*, the *Boar's Head* of *King Henry IV* and the *Elephant* of *Twelfth Night* are as real in their setting as the *Mermaid* of Elizabethan fame and the *Cheshire Cheese* to which Johnson and his friends were wont to resort. Every one is a rich storehouse of memories in literary history ; and the picturesque variety of name and sign constitutes half the attraction of the sociable atmosphere of public drinking.

With this background in mind it is easy to sympathize with the local feeling aroused on a recent application before the Licensing Justices at High Wycombe, Buckinghamshire, in connexion with a new public house to be built in the suburb of Micklefield. The applicants desired to call the new house by the time-honoured name of the *Pig and Whistle ;* the justices " did not regard the name as a suitable one, but thought the *Micklefield Arms* would be more appropriate." The bench have apparently based their right to object upon s. 14 (1) of the Licensing (Consolidation) Act, 1910, which gives them power to " attach to the grant of the licence such conditions, both as to the payments to be made and the tenure of the licence, and as to any other matters, as they think proper in the interests of the public." Whether the choice of a name falls within the ambit of the concluding words of the subsection is not, apparently, settled law ; but the applicants have deferred to the requirements of the bench, and the new house is to be known as the *Micklefield Arms*. Not far away, at Great Missenden, the *Old Stag and Hounds* had been recently renamed the *Prince Charles*, in honour of the Heir to the Throne. A Home Office spokesman has now pointed out that titles of living members of the Royal Family may not be used without the Sovereign's permission, and in deference to objections the bench have agreed to change the name to the *Valiant Trooper*.

Interesting contentions were put forward, in the former case, in the course of the argument. Counsel for the applicants suggested that dignity might not be preserved by the use of the name which found favour with the bench, as it would inevitably be corrupted to " Micky Arms," giving a Disneyesque flavour, if not to the beer, at any rate to the establishment. He prayed in aid of his clients' choice the respectable ancestry of the name *Pig and Whistle*, an incongruous combination which occurred in ecclesiastical architecture long before it was adopted by the taverns. The sign (as *The Times* informs us) is to be seen in the stall carving of Winchester Cathedral, where a sow is represented sitting on her haunches playing on a whistle. The origin of the device is obscure, some regarding it as a corruption of " Pig and Wassail," and others of " Pyx and Housel "—the latter having theological associations which are edifying enough for anybody's taste. None of these arguments appealed to the Justices, and the name will go down to posterity as the *Micklefield Arms*.

The suggested derivations of the alternative put forward on the applicants' behalf are not so far-fetched as they sound. The well-known *Elephant and Castle* is said to derive its origin from a desire to commemorate the Infanta of Castile : while another favourite, the *Goat and Compasses*, is believed to be a corruption of the pious expression " God encompasseth us." It is not difficult to imagine how, in the course of centuries, such modifications can become common usage ; in our own day the First World War converted Ypres into " Wipers," and the French expression *il n'y a plus* into " Napoo."

Corruption apart, inn-names and signs are a mine of treasures for the antiquarian. The sign of the *Green Man* goes back to the worship, in early Roman times, of the Goddess Diana Nemorensis, and Sir James Frazer opens *The Golden Bough* with a vivid description of the strange rite by which the High Priest, known as " King of the Wood," patrolled the sacred grove, night and day, with a drawn sword in his hand, and held sway over the sanctuary until the day came when he was killed in single combat by another candidate for the priesthood, who then ruled in his stead, to fall in his turn to a stronger or craftier successor. *The Chequers* was a common sign among Roman ale-houses ; the *Sun*, the *Moon* and the *Stars* (in various combinations) are said by Sir Thomas Browne to be of pagan origin, dedicated in early days to the worship of Apollo, Diana and other presiding deities. *The Saracen's Head*, of course, takes us back to the Crusades ; the *Angel* to the mediaeval miracle-play ; and the *Indian Queen* to the seventeenth-century Princess Pocahontas. *Dirty Dick's*, in Bishopsgate, was so called when Nathaniel Bentley (late in the eighteenth century), shocked by the death of his affianced bride on the eve of their wedding, closed all the rooms, neglected the business, and fell into such disreputable habits that, when the house was reopened in 1809, an excellent trade was done in exhibiting the skeletons of rats and mice found in the vaults. (Dickens has dealt exhaustively with the story in *Household Words*.)

In country districts, as might be expected, animal inn-signs abound. Horses and Bulls of various colours invite the thirsty traveller to refreshment ; Parrots, Ducks and Swans are found in profusion. Heraldic creatures—Lions, Dragons and Griffins —are displayed in varying attitudes. In both town and country many a *George Inn* calls attention to the loyalty of some former owner to the Hanoverian Dynasty, while the *Black Boy* reminds us of the days when fashionable ladies went about with young negro pages in attendance. One delightful variant of the last-named is to be found near Little Hadham, Hertfordshire, where the sign, illustrating a woman scrubbing a negro-child in a bath, bears the legend *The Labour in Vain*.

How much would be lost to the English scene if some Act of Uniformity were to interfere with this delightful hotch-potch of names and signs will be apparent at once to all who love the towns and villages of the English countryside. None knew this better than Hilaire Belloc, who warns us of the dreadful risks in memorable words :

> " From the towns all Inns have been driven : from the villages most . . . Change your hearts or you will lose your Inns, and you will deserve to have lost them. But when you have lost your Inns, drown your empty selves, for you will have lost the last of England." A.L.P.

The man who has " a complete answer at the appropriate time "
Often has to plead Guilty to the crime.

J.P.C.

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Many lawyers are quite content
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J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Fit person order—Local authority named subsequently considered to be not the appropriate authority—Proceedings to rectify position.*

JC, a girl aged thirteen years was placed on probation on September 13, 1951, after being convicted of larceny, and was at that date residing in the area of local authority H. She failed to comply with the conditions of the probation order and was brought before the same court on February 7, 1952, when she was committed to the care of local authority H as a fit person under s. 57 of the Children and Young Persons Act, 1933. Local authority H's representative in court at the time consented to the making of the order. Previous to this, however, on January 25, 1952, her family had taken up residence in the area of local authority P. There is nothing on the face of the order such as particulars of the girl's residence to indicate that it was not properly made.

Local authorities H and P agree, following *South Shields Corporation* v. *Liverpool Corporation* [1943] 1 All E.R. 338; 107 J.P. 77, that notwithstanding JC's residence in H's area at the date when the summons was issued, P should have been named in the fit person order as "the appropriate local authority" under s. 76 (1) of the 1933 Act.

Your opinion would be welcomed on the following questions:

(1) Is the fit person order valid?

If so, (*a*) Can it be revoked or varied under s. 84 (6) of the 1933 Act, read in conjunction with s. 2 of the Children and Young Persons Act, 1938, to enable P to be named as "the appropriate local authority," or does this procedure only apply when there is some material change in the circumstances of the child subsequent to the original hearing?

It will, of course, be appreciated, that the procedure under s. 90 (2) of the 1933 Act allowing an appeal on the question of residence only operates where there is an approved school order.

(*b*) If it can be varied must the consent of local authority P be obtained to the variation naming them, under s. 76 (1) of the 1933 Act, since a probation order was in force on February 7, 1952?

(2) Is the fit person order, although regular on the face of it, in fact a nullity because H have been wrongly named therein?

If so, (*a*) Can an application be made to the court to make a fresh order naming P as the appropriate local authority, on the ground that no order has in fact been made, or alternatively does the principle of *res judicata* apply?

(*b*) Could the defect only have been cured by an order of *certiorari* or *mandamus*, an application for such an order being now out of time?

SORT.

Answer.

(1) Yes, unless and until it is set aside.

(*a*) Yes. There is no requirement that there should be fresh evidence or a change of circumstances.

(*b*) The general principle being that no local authority is bound to accept the position of fit person when a probation order is in force, it would seem that the consent of P authority is necessary if the order is to be amended as suggested.

(2) We think not; a different view of the law is now taken from that which was taken when the order was made, but we do not consider this makes the order a nullity.

2.—Guardianship of Infants—*Custody—Application under Maintenance Orders (Facilities for Enforcement) Act*, 1920.

Mrs. A, an English woman, was married to a Canadian with Canadian domicile and there are two children of the marriage. After a period of settled residence in Canada Mrs. A returned to this country bringing the children with her and has since decided not to go back to Canada. Is it possible for Mrs. A to commence proceedings in this country under the Guardianship of Infants and Maintenance Orders (Facilities for Enforcement) Acts for custody of the children?

SFE.

Answer.

The Act of 1920 applies only to maintenance orders, *see* s. 3, and therefore it does not appear possible to make an order as to custody only. If, however, the object is to obtain an order for custody and maintenance, there appears power for the court to deal with the application, *see* definition of "maintenance order" in s. 10.

It is not stated in what part of Canada the husband is. The Act has been applied to most of the Provinces, but it will be necessary to ascertain whether it has been applied to the place in which the husband now is to be found.

3.—Housing Act, 1949—*Improvement grant—Whether statutory conditions bind existing mortgagee.*

My council have agreed to make an improvement grant under the Housing Act, 1949, but it is now found, upon inspection of the deeds before delivery of the cheque to the owner of the premises, that a mortgage is subsisting. This position appears to be accepted by s. 24 (1) of the Housing Act, 1949, and it appears, accordingly, that the council should now proceed to pay the improvement grant despite the instance of a mortgage. I am, however, concerned as to the position which will arise if the mortgagees realize their security. It appears that, in the absence of any statutory authority to the contrary (and I am unable to trace any statutory authority to the contrary, although the case of *Paddington Borough Council* v. *Finucane* (1928) 92 J.P. 68 appears to have some bearing) that the mortgagees, having advanced the moneys before the improvement grant was paid, could not be affected by the entry which is made in the local land charges register as required by the Housing Act, 1949, in connexion with the improvement grant.

On this basis, the mortgagees would be entitled to sell the premises without any of the restrictions imposed by the Housing Act, 1949, and the council's only remedy would be against the mortgagor—which, in these circumstances, would be of little value.

I shall be glad if you will kindly indicate:

(1) Whether there is some provision, which I may have overlooked, as to the priority of local land charge entries created under the Housing Act, 1949;

(2) If there is no such provision, is the position as I have stated correct?

(3) Any other observations you may have to offer.

ARDE.

Answer.

The Act foresaw that improved property might be subject to a mortgage already existing, but no such danger arises as the question contemplates. Section 23 (5) is inserted so as to ensure that a person deriving title from the mortgagor or mortgagee shall not, as a purchaser for value without notice after the "charge" attached, be able to claim that the "charge" does not bind him. Section 23 operates directly (*i.e.*, without the intervention of the Land Charges Act, 1925) upon the previously existing mortgagee, as upon the owner of the dwelling, unless that mortgagee or owner buys his freedom under s. 24.

4.—Landlord and Tenant—*Small Tenements Recovery Act*, 1838—*Warrant withheld at landlord's request.*

In applying the Small Tenements Recovery Act, 1838, in this borough, when the court has made orders for possession, in no case has the clerk of the justices actually issued a warrant to the police, as he acts in close liaison with the town clerk. When the court has ordered possession to be granted, the tenant pays all the arrears, and when this is done there is no desire to eject the tenant. The chief constable has now raised the point that he was not being provided with the warrants in accord with the provisions of the Act, and he maintained that, once the magistrates made an order for possession (which of necessity includes the issue of a warrant) then the order of the court is mandatory, and must be executed, and that it would not be proper for him to accept instructions from the council not to execute the warrant.

The town clerk has searched extensively for authorities in support or otherwise of the chief constable's contention, but has not found any.

Advice would, therefore, be appreciated:

1. As to whether the chief constable's contention is correct;

2. Is it proper for the council to issue instructions to the chief constable not to execute their warrant, where they consider it right not to do so, when all arrears have been paid up to date?

3. Can it be considered as an abuse of legal process for the council to continue to act as it has done to date in instituting proceedings under the Small Tenements Recovery Act, 1838, appearing before the magistrates, obtaining an order for possession, and then countermanding it, when all arrears have been paid?

If proceedings were taken in the county court, it is more than probable that, in like circumstances, the learned judge would only grant a suspended order. The magistrates have hinted at the last hearing that they are not prepared to act as a debt-collecting agency for the council.

4. General advice would be appreciated.

COR.

Answer.

1. Yes.

2. No : it is not " their " warrant, which the query calls it. It is a warrant of the justices.

3. The practice described may have been found convenient, but strictly we think it is an abuse.

4. Section 1 of the Act of 1838 is explicit, and the clerk to the justices has no right to hold up issue of the warrant, even at the landlord's request, once the decision has been given. What the judge would do is not in point, since the mandatory terms of s. 1 of the Act of 1838 do not apply to him. Similarly, once a warrant has been issued to the police, their duty is to obey it : they cannot properly take instructions to the contrary from the landlord. Our answer at 113 J.P.N. 480 may help, the point being that when Parliament thought it right to mitigate the effect of s. 1 it did so not by giving power to suspend issue of the warrant but by giving power after its issue to defer its execution. Where, as in ordinary local authority cases, there is no power to defer execution of the warrant beyond thirty days, the proper course, if the local authority do not want the ex-tenant and his furniture to be put out, is for the police to put the local authority into possession by their officer. If the local authority are willing, they can then grant a fresh tenancy without physical ejectment.

5.—Magistrates.—*Jurisdiction and powers—Sureties for good behaviour—Binding over complainant on a summons for assault.*

I shall be greatly obliged if I may have your views on the following point :

In the case of summons for a common assault, *Brown* v. *Jones*, there is power as you know to fine and also to bind over. When the case comes before the magistrates, Brown gives evidence of Jones having assaulted him. Jones, who has not taken out a cross summons, gives evidence of Brown having assaulted him. The parties are neighbours and there is evidence (or suggestions) of threats to shoot Brown by Jones and there is also evidence that Brown had a spade held up to hit Jones (which spade was taken away from him) and that Brown put his fist in the face of one of the witnesses for Jones. The dispute was over a right of way of a passage and the magistrates feel there may be a recurrence of the trouble with a consequent further breach of the peace. The magistrates are anxious to know whether they would be justified in binding over both parties under the Statute Edward III (Justices Act, 1361). I have referred to the cases of *Wilson* v. *Skeock* mentioned on p. 337 of *Stone*, 84th Edn., and also the case of *R.* v. *County of London Quarter Sessions ; Ex parte Commissioner of Metropolitan Police* referred to in that report.

My difficulty is that Brown is not before the court on a cross summons.

Have the magistrates as conservators of the peace power to bind over persons who are " before " the court but are not in point of fact " brought " before the court ? JAM.

Answer.

The statute 34 Ed. III c. 1 enacts that justices are to " take of all them that be (not) of good fame, *where they shall be found*, sufficient surety and mainprise of their good behaviour ", etc. We think, therefore, that if the justices are satisfied by the evidence that any person who is before them, in whatever capacity, is likely by his conduct to " blemish the peace " (to quote again from the statute) they are entitled to require of him sureties for his good behaviour. The binding over of complainants in assault cases, where the evidence shows them to be provocative and trouble-making persons, is by no means uncommon and would, we think, be supported by the High Court in suitable cases.

6.—Nuisance.—*Dirty shop—No assistants employed.*

The council is concerned about the condition of a certain shop. The shop consists of the ground floor of a large building. It is controlled and managed by the owner, and no employees are engaged. The articles sold consist of daily papers and periodicals, sweets of all description including chocolates, cigarettes and matches and, round about November, fireworks. The rear of the shop is filled with junk of all description, heaped together. Obsolete papers have been allowed to accumulate to such an extent as to prevent access to the shop, with the result that customers have to stand in a queue on the pavement outside. In addition, there is a continuous unpleasant odour. The shopkeeper herself is not clean in her personal habits. The town clerk has researched widely, but is unable to discover any legal authority on which his council can safely act to institute proceedings against the shopkeeper. General advice would be appreciated. BEEK.

Answer.

We infer that " health " in the widest sense is what the council have in mind, not obstruction or (seasonal) danger from fireworks. Unless and until the smelly and unsavoury conditions attain the dimensions of a statutory nuisance, we think the matter is one for the shopkeeper and her customers alone, though the council might consider s. 13 of the Food and Drugs Act, 1938, in relation to the chocolates and other sweets.

7.—Public Health Act, 1936, s. 47—*Voluntary replacement of earth closets, etc., by water closets—Draining to cesspools.*

Can a local authority under s. 47 (4) of the Public Health Act, 1936, agree to pay to the owner of a building a part of the expenses reasonably incurred in providing a water closet in substitution for a closet of any other type where there is not a sewer available but where it is proposed to provide a cesspool. In other words, can subs. (4) stand alone or must it be construed in conjunction with subs. (1) which states " If a building has a sufficient water supply and sewer available, etc., etc." B.R.E.D.

Answer.

We think subs. (4) is an independent enactment, and can as a matter of law be used (wisely or not) even if the new closet will be connected to a cesspool : it seems logical, since subs. (1) is a compulsory enactment, that the conditions there should be stricter.

8.—Road Traffic Acts—*Autrefois convict—Collision at light-controlled junction—Plea of guilty to not obeying lights—Validity of subsequent conviction for careless driving.*

A motorist goes through traffic lights at a cross roads on " red " and collides with another vehicle proceeding properly through the lights on " green." There is no evidence of negligence other than the failure to observe the lights, as the motorist at fault is driving at a reasonable speed and having passed the lights at " red " had no reasonable opportunity of avoiding the other vehicle. The motorist at fault pleads guilty to an offence of failing to observe the traffic signs.

Can a prosecution for driving without due care and attention or alternatively without reasonable consideration for others, be met by a plea of *autrefois convict* ? JALU.

Answer.

We find it difficult to accept that there is no evidence of negligence other than the failure to observe the lights. The other vehicle was there to be seen, and whether the motorist did or did not see the lights he should presumably have been driving in such a way as to be able to avoid colliding with another vehicle at the junction. The fact that he did collide with it seems to be some evidence of negligence in addition to his failure to obey the lights. Whilst it is difficult to be sure without hearing the evidence we think that the circumstances may well justify a conviction under s. 12 of the 1930 Act in addition to the conviction for failing to obey the traffic lights.

9.—Road Traffic Acts—*Insurance—Trailer drawn by goods vehicle—Need for endorsement on policy to cover such case.*

At my court recently the driver of a motor-car goods vehicle drawing a trailer was convicted of :

(1) using the vehicle for a purpose for which an excess rate of duty was payable ;

(2) using the vehicle without third party insurance.

The policy in question contained the usual exception permitting the towing of one disabled mechanically propelled vehicle but did not refer specifically to a trailer. There was also the usual clause debarring cover " when carrying goods in excess of that for which constructed ".

In your opinion does a policy in such terms cover the use of a trailer attached to a motor-car goods vehicle, or is it essential that a specific mention must be made in the policy covering the use of a trailer ? JOR.

Answer.

It is impossible to advise with certainty what the effect of a policy is without seeing it, but according to *Gilbert's Motor Insurance* (third edition) at p. 73 one of the general exceptions in a commercial vehicle policy is that all risk whilst the vehicle is drawing any trailer (other than a disabled vehicle referred to in the question) is shut out and an endorsement is required to include the hauling of trailers. It seems probable, therefore, that the policy in this case did not cover use of the vehicle when drawing a trailer.

10.—Road Traffic Acts—*Speed limit—Goods vehicle—Vehicle carrying only tools and oil used for maintenance work, e.g., maintenance of a county council canteen service.*

May I have your advice on the following question please :

The High Court in *Blenkin* v. *Bell* [1952] 1 All E.R. 1258, decided that a goods vehicle (with pneumatic tyres) not over three tons unladen weight and authorized to be used under a carrier's licence is not subject to the thirty miles per hour speed limit outside built up areas if it is not carrying goods, *i.e.*, if, in ordinary language, it is unladen. Would you consider such a vehicle laden if it carries merely tools and oil, which are part of the equipment required for the maintenance work in connexion with which the vehicle is used ? I have in mind a sixteen *cwt.* van used by the county council in the maintenance of its canteen services. JOP.

Answer.

We think these tools and oil come within the definition of " goods or burden of any description " in para. 2 of sch. 1 to the 1930 Act. We assume from the question that this is a C licensed vehicle.

BOROUGH OF BROMLEY

Legal Assistant

APPLICATIONS are invited for the appointment of Legal Assistant (Solicitor) at a salary in accordance with Grade A.P.T. Va (£625—£685) of the National Scales of Salaries, plus London Weighting.

Local Government experience is not essential.

The successful candidate will be required to help and gain experience in the general legal work of the Department.

He will also be required to pass a medical examination and the appointment, which is to the established staff, will be terminable by one month's notice on either side.

Applications, endorsed "Legal Assistant," and stating age, qualifications and experience, and giving the names and addresses of two persons to whom reference may be made, must reach me not later than May 8, 1953.

Canvassing, directly or indirectly, will disqualify.

S. CRITCHLEY AUTY,
Town Clerk.

Municipal Offices,
Bromley, Kent.
April, 1953.

DORSET COMBINED PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the above appointment in the Dorset Combined Probation Area.

The appointment will be subject to the Probation Rules, and the salary will be in accordance with these Rules, subject to the appropriate Superannuation deductions, plus a travelling allowance in accordance with the County Scale. The successful candidate will be required to pass a medical examination.

Forms of application and particulars of the appointment may be obtained from the undersigned, to whom applications should be returned not later than May 9, 1953, with the names and addresses of not more than three persons to whom reference may be made.

Canvassing, either directly or indirectly, will be a disqualification.

C. P. BRUTTON,
Secretary to the Probation Committee.

County Hall,
Dorchester.

CITY OF LEICESTER

Appointment of Male Probation Officer

APPLICATIONS are invited for the appointment of a Male Probation Officer.

The appointment will be subject to the Probation Rules, and the salary will be in accordance with the scale provided under those Rules.

Applications, stating age, qualifications, experience and present salary (if already serving), and accompanied by not more than three recent testimonials, must reach the undersigned not later than Saturday, May 16, 1953.

W. E. BLAKE CARN,
Secretary to the City Probation Committee.

Town Hall,
Leicester.

FLINTSHIRE COUNTY COUNCIL

Appointment of H.M. Coroner

THE Council invites applications from Legal Practitioners, duly qualified in accordance with the Coroners Acts, 1887 to 1926, for the appointment of Coroner for the County of Flint with the exception of the Maelor Rural District. The salary will be at the rate of £500 per annum plus a travelling allowance of £100 per annum. The person appointed will be required to provide all office facilities, clerical assistance and incidental matters at his own expense.

Forms of application, obtainable from the undersigned, should be returned not later than May 2, 1953.

W. HUGH JONES,
Clerk of the County Council.

County Buildings,
Mold.
April 22, 1953.

WEAR AND TEES RIVER BOARD

Appointment of Clerk of the Board

APPLICATIONS are invited from Barristers-at-Law or admitted Solicitors for the post of Clerk of this Board, which will become vacant on September 14, 1953. Previous experience with a local authority, river board or catchment board will be an advantage but is not essential. Salary scale £1,550×£100—£1,850. The person appointed will not be permitted to undertake any outside work.

The appointment will be subject to medical examination and to the Local Government Superannuation Act, 1937, and will be terminable by two months' written notice on either side. The Board are able to give some assistance in the obtaining of housing accommodation.

Applications, giving particulars of age, qualifications, experience and previous and present appointments, with the name and addresses of three referees, must reach the undersigned not later than May 11, 1953.

Applicants must disclose whether or not they are to their knowledge related to any member or senior officer of the Board. Canvassing, directly or indirectly, will disqualify.

A. G. STIRK,
Clerk of the Board.

"Greencroft East,"
Coniscliffe Road,
Darlington,
Co. Durham.

COUNTY BOROUGH OF WALLASEY

Senior Assistant Solicitor

APPLICATIONS are invited by May 13, 1953, for the above appointment. Salary Grade A.P.T. IX (£815×40(3)—£935 p.a.), commencing at a point in accordance with the experience of the applicant. Forms of application and conditions of appointment obtainable from the undersigned.

A. G. HARRISON,
Town Clerk.

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